

CITIZENS BUSINESS



Journal of Municipal Finance
and
Municipal Economy

January 25, 1925

RED ALERT FOR THE
CITY IN LOWER

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**Bureau of Municipal Research
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(Eastern Division)

Philadelphia

January 13, 1958

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'RED ALERT' FOR THE PARTY IN POWER

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The establishment of one-party control of the major elective city offices in Philadelphia, which became effective last week, is at once a source of gratification to the majority party and an occasion for sober reflection by those responsible for the destinies of that party.

For the past 16 years—with the exception of the period 1946–1950—the party in control of the city Administration has not simultaneously controlled the important office of City Controller. It is perhaps not accidental that the only local public scandal of note which has occurred during those 16 years took place at a time when there was one-party control of both the Administration and the key office of City Controller.

Has Important Functions

The Home Rule Charter substantially modified the functions of the City Controller, primarily through transfer of many operating fiscal responsibilities from the Controller to the Mayor-ap-

pointed Director of Finance. Left to the City Controller are the tremendously important responsibilities of approval of all transactions prior to payment and of post-audit of all other financial affairs of the city, including both receipts and expenditures. Moreover, the City Controller continues as a member of the important Sinking Fund Commission, as the official certification officer in respect to municipal debt, and as a member of the Bond Committee (along with the Mayor and City Solicitor), which determines the timing of the issuance of city bonds and certain optional features of such bonds.

The present charter also continues the City Controller as a member of the Board of Pensions and Retirement, the successor to the old Board of Pensions. The peculiar composition of the Board of Pensions and Retirement—which consists of three of the Mayor's direct appointees, plus the Personnel Director, who normally works closely with the Administration, and four representatives of the employees—has at times cast the City Controller in the position of having the controlling vote in deliberations in that forum, particularly in issues where the line was drawn between the Administration and employees.

Assessing the 1950-1958 Experience

Arising out of both political and personal considerations, the relations between the city Administration and the City Controller in the past six years under the Home Rule Charter and in the preceding two years under the prior charter have not always been fully coordinate. The Controllers have aggressively pursued the performance of their control functions. While these actions have been at times distasteful and

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A Flood of Water Studies

In recent months, the BMR-PEL has prepared a series of reports on the Philadelphia Water Department. Copies of the following reports are now available at the prices noted:

- *Water Fund and Sewer Fund Finances, 1953-1957 (12 pp., \$1).**
- *Water Supply Facilities (86 pp., \$2).*
- *Sewerage Facilities (23 pp., \$1.50).*
- *Philadelphia Water and Sewer Rates, 1946-1957, and As Proposed by the Water Dept. for 1958-1961 (17 pp., \$1).*

Single copies of these reports may be obtained without charge by BMR-PEL contributors.

* This report was reproduced in the September 12, 1957, *Journal of City Council*, pp. 796-816. A limited number of copies of the *Journal* are available without charge from the Clerk of Council.

irritating to members of the Administration—and particularly so to the three persons who have successively held the office of Director of Finance since 1951—independent observation requires the conclusion that, on balance, the citizens have doubtless profited from this arrangement. On the other hand, the processes of administration have at times suffered and worthy projects have not been expedited to the degree that they might have been under more harmonious circumstances.

The Stage Is Set

In any event, the people of Philadelphia have once again reverted to the one-party system of

full control. The only remaining elective officers from the minority party are three Councilmen and one City Commissioner. Even these afford only a relatively minor position from which to provide an effective check upon the Administration.

In these circumstances, new responsibilities, therefore, devolve upon the present majority party. They are new in terms of the fact that this is the first time the present majority party has ever held all of these offices. The conditions are therefore fully at hand in which "party responsibility" reaches its opportunity for full flowering.

Conversely, the conditions are also at hand in which the lack of proper stewardship by only a few—if not promptly detected by effective internal controls or effective post-audit—can produce those circumstances in which much that has been gained can and will be lost.



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UNIVERSITY OF ILLINOIS

PHILADELPHIA WINS ALL-AMERICA CITIES AWARD FOR THIRD TIME

The recent announcement that Philadelphia is a winner in the 1957 All-America Cities Awards competition, sponsored jointly by the National Municipal League and *Look* magazine, is most gratifying, especially in view of the fact that this is the third time Philadelphia has won the award. In the nine-year history of the competition, no other municipality has been triply so distinguished.

Basis of Selection

Philadelphia's selection as a member of All-America Cities teams of 1949 and 1951 stemmed from "its model campaign for a new charter . . . and the vote to abolish useless county offices." The 1957 award recognizes the further contribution toward civic progress made by "energetic, purposeful, intelligent citizen effort" in the years 1951-1957. Specifically, the award citation notes that "organized citizens took an interest in the

renewal of obsolete sections. Evidence of their spectacular success: a \$100 million food distribution center built on a former dump, a new housing code and zoning ordinance, a vast redevelopment of the Eastwick section, and a current \$200 million center-city [Penn Center] redevelopment."

Not "A Time To Rest"

Happily, the Philadelphia community shows no immediate disposition to relax its efforts to regain the pre-eminence which the city so deservedly enjoyed long ago. The temper of the populace is such that this new laurelling of the "civic brow"—witness the awards received by the city in recent years for traffic safety, fire prevention, noise abatement, and cleanliness—will be accepted with pleasure and forthrightly considered to be a spur to further civic achievement.

Material demonstrations of the forward-looking spirit of the "new Philadelphia" are observable—even inescapable—throughout the city. The numerous projects undertaken by the citizenry, individually or concertedly, range from the installation of flower boxes (little ones in the windows of private homes and huge ones on the sidewalk before the Fidelity-Philadelphia Trust Building) through the "face-liftings" of the Union League building, the Masonic Temple, and other landmarks, to broad-scale development and renewal, as blueprinted in the city's current multi-million dollar Capital Improvement Program, which is financed from private and public sources. Among the most notable of the major improvements now under way are Penn Center, the Mall, and the Schuylkill Expressway.

The Troublesome Future

Just as inescapable as the visible improvements, great and small, achieved to date or now

Industrial Renewal for Philadelphia

"Competition for the location of industries is keener and pursued more aggressively today than ever before in the history of our nation. It is a fact that competition will not stand by and wait for Philadelphia to solve its problem of the out-migration of its industry. . . . Therefore, it is suggested that a two-fold approach be taken in attacking the problem as follows: First, determine and do as expeditiously as possible those things which can be done immediately to slow down, if not completely halt, the exodus of industry from Philadelphia, and, Second, develop a practical, comprehensive long-range industrial development program consistent with the major purposes of realization of the city's full economic potential. . . ."—*BMR-PEL, An Approach to Philadelphia's Industrial Renewal Problem* (1956), pp. 12, 13.

under way, however, is a bleakly oppressive truth; namely, the task of re-establishing Philadelphia as a first-rank city has just begun. To attain that goal, much effort and many dollars will need to be expended in the next several years by private interests and by government.

Among the enormous problems on which a brave start—but only a start—has been made are:

- *Maintaining the city's economic base.* Two vital factors adversely affecting Philadelphia's economic health are (1) the dispersal of industry (entailing the loss of approximately 3,000 jobs annually), and (2) the out-migration of middle and higher-income groups. The city's merchants and those in service occupations are the first to suffer financially from these removals, but their impact is reflected eventually in a shrinking tax base.

- *Financing public improvements.* Closely allied with the task of bolstering the economy is that of providing vitally-needed public improvements, which will help in retaining and attracting residents and industry. Today, as the national economy hesitates rather than booms, Philadelphia's problem of avoiding a downward economic spiral becomes even more acute.

- *Crime.* The city government is expending an increasing amount of its funds for crime prevention, police

protection, and related activities, and private organizations—working independently or in cooperation with governmental agencies—are shouldering heavier responsibilities for combatting crime and delinquency. But the crime rate continues high.

● *Transportation.* Business and industry continue to suffer the virtually incalculable losses attendant upon the slow movement of traffic through narrow, clogged streets—to the obvious detriment of the city's economy.

● *Completing city-county consolidation.* Completion of the organizational reform of the city government waits upon state legislation which would permit "consolidation" of four former county agencies—the Board of Revision of Taxes, the Registration Commission, and the offices of Sheriff and City Commissioners.

On the Credit Side

More optimistic than the foregoing recitation of prevailing ills is the present hope that the same aroused citizen interest which made possible the Philadelphia achievements meriting the All-America Cities Awards of 1949, 1951, and 1957 will continue to serve the cause of civic betterment. The extent of the calculated remoulding of the Philadelphia community, including its government, in the past few years has demonstrated the power of heightened citizen awareness when translated into action.



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THIS IS ABOUT THE OPERATION OF THE OF OUR STATE DIVISION

A unique characteristic of the Pennsylvania Economy League's citizen-action approach to improving government in Pennsylvania is its co-ordinated operation at the state and local government levels, accomplished through its statewide organization of county branches, regional divisions, and its State Division. In a previous issue of CITIZENS' BUSINESS (No. 2,107), the typical functions of a PEL county branch were described. This issue reviews the PEL's program as it is carried on at the state level of government by the PEL's State Division, headquartered in Harrisburg.

The Mission and The Means

Fundamentally, the PEL's state program and services are governed by the same objectives and approach as guide the operations of its regional divisions and county branches. Seeking to achieve the basic objective of effective, efficient, and responsible management of state affairs, the

PEL through its State Division provides an unbiased source of facts and technical management guidance to assist both citizens and public officials in better carrying out their joint governmental responsibilities.

As the practical means to this idealistic end, the PEL maintains a trained staff and research facilities in Harrisburg to conduct a continuous appraisal of fiscal and administrative operations of the state government and to make available to officials—executive and legislative—its fact-finding and management consulting services.

Broad and Varied Field of Operation

The area of operation of the State Division extends not only to services administered directly by the state government but also to the state's activities controlling or affecting the administration of local government services.

The research activities of the State Division range from daily informal consultation with administrative officials concerning current management problems, to the undertaking of formal and extensive research projects bearing on broad policy matters. In subject matter, these activities extend over the wide and varied range of functions and services which are the responsibility of the state government.

Budget Balancing and Fiscal Management

Much of the PEL's attention has necessarily been devoted to the state's involved and critical problems of financing its ever-expanding service demands. The services of the State Division have been sought and utilized consistently by both the executive and legislative branches of the state government in analyzing and evaluating expenditure requirements and revenue resources.

Typical of the PEL's activities in this respect was its research for the bi-partisan Governor's

The Whole Picture

In addition to its State Division, the PEL has three regional divisions—Western, Central, and Eastern—which have headquarters in Pittsburgh (Allegheny County), Wilkes-Barre (Luzerne County), and Philadelphia, respectively. Branches have been established in 16 other counties in the state, three of these branches being in the Eastern Division.

Since October 1, 1954, the activities of the Bureau of Municipal Research and of the Eastern Division of the PEL have been merged. Both of these nonpartisan research agencies derive their financial support from the voluntary contributions of individuals and organizations interested in improving government. Contributions to the BMR-PEL are deductible for federal income tax purposes.

Tax Policy Advisory Committee of 1956, the recommendations of which were substantially adopted by the General Assembly in 1957.

The PEL's contribution toward improved state financial planning and management is exemplified by the dramatically improved program-type state budget which the PEL designed and assisted the Governor's office in initiating in 1957.

Modernizing State Administrative Machinery

The services of the State Division are also demanded extensively in studying and recommending improvements in the organization structure and administrative processes of the Commonwealth. A tangible example of the product of the PEL's work in this area has been the recent reorganization of the Governor's executive

offices, based on a study and recommendations by the PEL to strengthen orderly executive control and coordination of the Commonwealth's complex administrative machinery.

Current PEL projects involve such vital administrative needs as the development of a long-range capital program and budget, the development and strengthening of systematic cost and expenditure controls, and integration of the state's social welfare programs and agencies.

Improving State-Local Relationships

In its function of providing basic research to rationalize the state's supervision and control of local governments, the State Division has traditionally served as an unofficial research arm for the permanent Local Government Commission of the General Assembly. In this capacity the PEL has contributed the research background for important state legislation designed to improve local government organization and administration, e.g., the 1957 Act extending to certain Pennsylvania cities long-overdue home rule.

Of Statewide Service

The State Division provides for all PEL members throughout Pennsylvania the opportunity and the medium for informed and constructive participation in the management of state affairs.



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ZONING ADMINISTRATION

Report Suggests Means of Overhauling City's Zoning Procedure and Practices

Although Philadelphia's zoning procedures and practices as developed within the present legal framework—principally the Home Rule Charter and the 1933 Zoning Ordinance, as amended—have generally produced reasonably satisfactory relations among the four city agencies primarily concerned with zoning administration, the need for improvement in certain areas is apparent. This is the major conclusion of the recently-released report on *Zoning Administration in Philadelphia*,* prepared by the BMR-PEL for the city's Zoning Advisory Commission.

Focus of Recommendations

The 105-page report focuses on “methods of providing closer correlation and integration of the zoning procedures and practices of the Zoning Section of the Department of Licenses and In-

* Copies of this report are available at \$1.50 each. However, contributors to the BMR-PEL may obtain single copies without charge.

spections, the Zoning Board of Adjustment, the City Planning Commission, and city Council, and appropriate administrative methods of these agencies dealing with the public." To this end, the BMR-PEL makes 19 major recommendations, which are based on the findings of its zoning administration study and, in some part, on data published in an earlier report, *Administrative Survey of the Department of Licenses and Inspections*.*

The Zoning Board of Adjustment

In addressing the bulk of the recommendations to the problems of the Zoning Board of Adjustment, the report notes "it is with respect to the Board that the greatest opportunity for administrative improvement is presented, directed primarily toward the objectives of producing sounder decisions on zoning appeals and reducing the heavy and detailed volume of work placed on the Board." Among the recommendations pertaining to the Board are the following—in capsule form:

- Formalize and promulgate the conditions prerequisite to the granting of variances and exceptions.

- Prevent creeping neighborhood deterioration through elimination of non-conforming uses by such means as (1) discontinuance at the end of reasonable amortization periods, (2) removal of nuisances by public acquisition and demolition, and (3) strict enforcement of housing, building, fire, and related codes.

- Develop an expanded program which will assure the Board's being advised of the interest of other public agencies in certain zoning cases.

- Appoint a "technical secretary" to head the staff of the Board, so that there will be no need for the

* Published by the BMR-PEL in December 1956. A limited number of copies of the 400-page, 2-volume report are available at \$10 per copy.

Charter Versus Statutes

A conflict in city and state legislation on zoning has been resolved by a recent State Supreme Court decision. The opinion, in effect, upholds the validity of a city ordinance of December 6, 1955, which provides—among other things—that “the procedure to be followed with respect to the enactment of ordinances which deal with . . . zoning matters shall and need only conform in every respect to the procedure for the enactment of all other ordinances of the City as prescribed in the Philadelphia Home Rule Charter. . . .” Further, the ordinance embodies a repealer of those sections of the State Act of May 6, 1929 (P.L. 1551), which are inconsistent with the ordinance.

*The state act referred to specifies that an affirmative vote by **an extraordinary majority** of all members of Council is necessary to the passage of any amendment to the city’s zoning ordinance when such amendment is protested by 20% or more of the property owners in or near the area affected by the zoning change. On the other hand, the 1955 ordinance—as it derives from Section 2-201(7) of the charter—requires an affirmative vote by only **a simple majority** of all members of Council to effect passage of such an amendment. Hence, the test case and ensuing court decision.*

The decision serves to demonstrate again the meaning of “home rule”; i.e., in matters of purely local concern which do not touch on subjects specifically reserved to the State Legislature by the 1949 Home Rule Act, the provisions of the charter and ordinances of Council are paramount even if they run counter to existing statutes.

head of the Zoning Section to supervise the Board’s staff.

- Amend the Philadelphia Home Rule Charter to allow the Board to delegate to a qualified staff employee the power and duty to hold public hearings on specified types of cases. In any event, both before and after the effective date of such an amendment, the “technical secretary” should make analyses and, possibly, recommendations which would aid the Board in reaching decisions.

- Increase the fees charged for zoning appeals so that the city’s revenue from zoning appeals will approximately equal the cost of handling such appeals.

Directed to Other Agencies

A number of the recommendations contained in the report would require action by other public bodies involved in the zoning function, including Council and the City Planning Commission. In summary form these (and the agency concerned) are:

- Adopt a statement of public policy and general procedures to govern the processing of, and decisions on, proposed amendments to the zoning ordinance and maps (Council).
- Adopt detailed rules and regulations to be followed in zoning activities (City Planning Commission).
- Extend to all types of properties the provisions of the 1955 state act which now protects buyers of multi-family dwellings and of structures containing both commercial and residential uses from acquiring properties not in conformity with the city's Zoning and Housing Codes (Council).
- Review formally—at 10-year intervals—the operation of the zoning process so that the impact of zoning decisions, made on a day-to-day basis, may be seen in perspective against the backdrop of changing neighborhood conditions and community objectives (ad hoc agency, such as the Zoning Advisory Commission).



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REAL ESTATE SECTION

Philadelphia's 'Real Estate Office' Transacts Business Averaging \$2 Million Yearly

It may come as a surprise to many readers that one of the busier "real estate offices" in Philadelphia is located in City Hall Annex—the Real Estate Section of the city's Department of Public Property. The volume of business transacted by the Section now averages roundly \$2.0 million annually.

The functions of this unit include:

- Acquisition—by purchase (negotiation alone or plus condemnation) or lease—of real property for city purposes.
- Disposition of city-owned, surplus real property.
- Rental of city-owned property to others.
- Collection of rents from tenants leasing from the city.
- Allocation of space in city-owned facilities to city agencies.
- Creation and maintenance of a perpetual inventory of real property owned by the city.
- Furnishing information on city-owned real estate.

Purchasing Real Property

A city department or agency requiring real property for its operations presents a written request to the Commissioner of Public Property. He forwards the request to the Chief of the Real Estate Branch—the Real Estate Officer—who (1) checks the capital budget for availability of funds, (2) interprets the request in terms of various limiting factors, including location, and (3) investigates suitable properties.

Once the requesting agency has indicated its choice, the proposal to purchase the designated property is submitted to the City Planning Commission and to the Managing Director's Office. If their written approval is forthcoming, the Real Estate Section begins negotiation with the owner. In the event that negotiation proves successful, the property is listed—with others—in a purchase ordinance (usually prepared by the Department of Public Property and approved by the Law Department for form) which is forwarded to the Mayor for introduction in Council. At the same time, a companion ordinance is forwarded, listing for condemnation those properties on which negotiations have failed.

Disposing of Real Property

A department or agency wishing to dispose of excess real property, notifies in writing the Commissioner of Public Property, who forwards the notice to the Real Estate Officer. The Officer canvasses all city departments and agencies for one which might require the property. Should it be found that the property is not needed, two ordinances are required of Council. The first provides the authority to sell the real property; the second approves the actual sale of the property, when such a sale is transacted. Real property

offered for sale by the city must go to the highest bidder at a public sale. No negotiation is allowed.

Leasing of Real Property

The Real Estate Section negotiates and administers leases of (1) private property for use by city departments and agencies and (2) certain city-owned facilities to private interests for their use. The Department of Commerce, the Department of Recreation, and the Fairmount Park Commission, however, lease certain of their own facilities to private agencies. City Council must approve leases exceeding one year's duration. Shorter-term leases require only the approval of the Commissioner of Public Property.

Volume of Work and Cost of Operation

The following tables indicate the dollar volume of business transacted by, and the operating costs of, the Real Estate Section in recent years:

Business Transacted, 1954-1957

<i>Transaction</i>	<i>Amount</i>
Acquisitions	\$4,632,012
Dispositions	948,900
Leases	
Rent collected*	215,000
Rent paid	1,780,000
Total	\$7,575,912

Total Cost of Operation, 1954-1957

<i>Year</i>	<i>Amount†</i>
1954	\$ 38,275
1955	37,900
1956	44,285
1957	45,970
Total	\$166,430

* Excluding rentals collected by the Department of Commerce, Department of Recreation, and Fairmount Park Commission.

† Including salaries, supplies, utilities, advertising, auctioneers' fees, and estimated costs of transportation, rent equivalent, and top-side administration.

Cost of Education in Lower Bucks County

*"Many new schools have been built—and many more will be required—to house the growing enrollment in which two pupils are ready to enter first grade for every one graduating from high school. Historical data, and particularly historical financial data, are interesting in their own light; but their real value lies in their application to the future. . . ." It is within this context that the Lower Bucks County Branch of the BMR-PEL presents its recently completed report on the **Cost of Education in Lower Bucks County, 1955–1957.*** The 79-page report offers detailed comparisons of financial data—on both district and functional bases—for 14 school districts in this rapidly urbanizing area in Bucks County.*

A limited number of copies of this report are available at \$2.50 each. However, single copies may be obtained without charge by BMR-PEL contributors.

** This report is a sequel to **Cost of Education in Lower Bucks County, 1952–1955**, copies of which are available at \$2.50 each.*

Thus, the cost equalled only about 2.2% of the dollar volume of business. While this low rate of 2.2% reflects credit on the efficiency of the Real Estate Section, it would be inappropriate to undertake comparisons between this rate and the normal charge made by private real estate agencies. Public and private real estate agencies are not truly comparable because of differences in the nature of many of their transactions.



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'NOT OF RECORD' APR 10 1958

How Record-Keeping Functions Are Performed In Magistrates' Courts

The state Constitution of 1873 says that the Philadelphia Magistrates' Courts are "courts not of record." Whatever the term may have meant to the authors of that venerable document, it did not then—nor does it now—mean that the magistrates shall keep no records. In fact, existing statutes impose rather stringent record-keeping responsibilities on the magistrates. But examination of the current practices of the magistrates shows that in some respects these requirements are not being met satisfactorily due in part to a lack of adequate over-all supervision of the system.

The Magistrates' Acts of 1937 and 1949 require the Board of Magistrates to "prescribe forms for civil and criminal dockets, which shall be kept by each magistrate, and in which each magistrate shall *enter daily all proceedings* held

This is the fifth in a series of articles based on a study financed by the Thomas Skelton Harrison Foundation.

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before him *and all official actions* taken by him. . . ." (Italics supplied.)

Records in Civil Cases and Summary Trials

In addition, various statutes and court decisions prescribe in detail the records to be maintained in both civil and criminal proceedings. For example, in a "summary" criminal trial, the record should include at least: (1) the record of the defendant's arrest or appearance; (2) that the information was read to the defendant; (3) that the defendant was charged with a criminal offense; (4) that the defendant was given an opportunity to plead and offer a defense; (5) *the substance of the evidence on both sides*; and (6) the finding and adjudication.

Records in Preliminary Hearings

In preliminary hearings of indictable offenses, the magistrate is required not only to make docket entries, but also—if the defendant is held for court—to make "transcripts" of such entries and deliver them to the Clerk of Quarter Sessions and to the District Attorney.

Moreover, in preliminary hearings on most of the more serious indictable offenses, the Chief Magistrate is required to appoint stenographers to "report in full the entire proceedings. . . ." The District Attorney, the City Solicitor, the Chief Magistrate, and any common pleas judge must be furnished copies of the stenographic record upon request.

Monetary Records

Whenever a magistrate receives costs, fees, fines or other moneys, he must, by law, record them in the appropriate docket and in a day-book. All moneys received within a calendar month—except costs and judgments payable to parties in a civil proceeding and constables' fees—must be paid into the city treasury within five

days after the first Monday of the following month. Constables' fees are to be paid directly to the constables by the magistrate.

Supervision of Record-Keeping

Each of the 28 magistrates is responsible for maintaining his own dockets. No one officer supervises the keeping of dockets or even checks them for uniformity and adequacy. However, records of monetary transactions are audited by the City Controller.

When a magistrate deposits funds to the city treasury, he must furnish to the City Controller an accurate account of such deposit along with a statement of payments made to constables. The Controller may not countersign warrants for any magistrate's salary until satisfied that the magistrate's financial accounts are correct and that all required payments have been made to the city treasury.

The Controller's staff audits the magistrates' books monthly. It should be noted that this procedure is designed to ensure payment to the city of moneys collected by the magistrates and for which entries have been made. However, the audits cannot ensure that all receipts have been entered in the magistrates' books.

Criticisms: Monetary Records

The annual audit reports prepared by the Controller indicate numerous defects, including:

1. Failure to make returns to the city treasury within the statutory time-limit.
2. Failure to record bail and appeal money.
3. Failure to maintain proper records of bank accounts used as depositories for court funds.
4. Failure to keep control over issuance of writs in landlord-and-tenant cases.
5. Failure to maintain proper records of moneys received as costs, e.g., for issuing copies of the charge, for accepting bail, and for making transcripts.
6. Failure to record constables' fees.

Criticisms: Late Returns

The District Attorney has frequently complained that the magistrates do not send the transcripts of docket entries to his office within 48 hours of the hearing. "Too often some magistrates hold their transcripts for as long as one week or more. Where the defendant is confined to prison, this delays his arraignment and sometimes hinders his release on bail since the District Attorney's office has no official commitment on him." The District Attorney also finds that the stenographic reports of proceedings are often unduly delayed and are rarely available prior to presentment of cases to the grand jury.

Extensive Record-Keeping Duties

This review of the magistrates' responsibilities for keeping trial and financial records indicates that the term "court not of record" is hardly an accurate description. The comments on the failure of some magistrates to comply with the legal requirements suggest the need for devising means of improving their performance, particularly with reference to providing adequate over-all supervision of the administration of the magistrate courts' system.



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'A PROGRESS REPORT ON THE CHARTER IN ACTION'

Since 1952, when the Philadelphia Home Rule Charter went into effect, numerous proposals—formal and informal—to amend that document have been considered publicly and privately. Proposals for amendment have ranged from suggestions for modest procedural changes to concerted campaigns to undo basic features of both the charter and the city-county consolidation amendment.

Encompasses Major Proposals

With the aid of a grant from the Thomas Skelton Harrison Foundation—an agency created to foster good government in Philadelphia—the BMR-PEL undertook in 1956 a comprehensive review of proposals directed toward amendment of the charter. The result is the recently-released report, *A Discussion of Some Proposed Revisions of the Home Rule Charter: The 1951-1956 Experience*, which “encompasses all of the changes which appear to be of considerable importance to

municipal policy in one manner or another.” Additionally, the report presents background information on the charter, discussions of the mechanics of—and attempts at—amendment, and a review of city-county consolidation.*

Orientation of Discussion

The report defines nine major features of Philadelphia’s governmental organization and management as embodied in the Home Rule Charter and orients discussion of the proposals for charter changes to these nine features.† In summary, the nine basic features and *the major findings relevant thereto* are as follows:

1. Mayor-Council form of government.

No suggestions for basic modifications in the existing Mayor-Council plan have been encountered.

2. Composition of Council.

No question has been raised concerning the composition of Council.

3. The Mayor and his subordinates are invested with certain administrative powers which, under previous charters, were defined as legislative.

Of primary importance among the suggested changes are those proposals calculated to re-establish the former allocation of powers between Council and the administration, e.g., restoring Council’s utility rate control.

However, the BMR-PEL observes that the present allocation of powers between the legislative and executive branches has worked well for the community, but suggests that the present definition of powers would work even better if Council explored its own powers in the area of legislative activity and utilized them more fully.

* *A limited number of copies of this report are available at \$1.50 each. However, contributors to the BMR-PEL may obtain single copies without charge.*

† Apart from the charter amendment proposals discussed in this report, the BMR-PEL has received suggestions for changes in many of the procedural and organizational provisions of the charter. Comments on these “minor” changes are included in *Proposed Charter Changes: Sectional Analysis*, an unpublished document which is available in the BMR-PEL Library.

4. The Mayor is provided with a first level of administration—including the Managing Director, Director of Finance, and City Representative—which is charged with actual supervision of operations.

It has been recommended that the Personnel Director and the Executive Director of the City Planning Commission be included in the Mayor's Cabinet.

Other proposals in this area contemplate (1) reorganization of the Office of City Representative and Department of Commerce, and (2) election—rather than appointment—of the City Solicitor. Inasmuch as the first level organization prescribed by the charter is frankly experimental, students of administration are divided as to its chances of success. The more dubious of the critics see in the gradual redistribution of power through creation of special offices—such as the Development Coordinator—a movement toward a fundamental undermining of governmental framework established by the charter. The report concludes that any given Mayor must be allowed certain flexibility of action, though it is clear that he must also be attuned to the administrative implications of his actions else he might create situations under which the primary provisions of the charter would become a dead letter.

5. The charter creates or continues in existence a number of *independent* boards and commissions, which are part of the secondary level of administration and are indirectly responsible to the first level.

A major question in this area is: Would it be appropriate to bring about closer relationships between these independent boards and the regular administrative processes? The means suggested to accomplish this end include transferring their functions to new or existing departments.

6. The Mayor's control in the managerial area is strengthened through a clarified pattern of departmental and subordinate organization.

The discussion on this subject includes proposals to (a) split the Streets Department into two Departments—one for streets and one for sanitation; (b) abolish the office of City Treasurer and vest its functions with the Director of Finance; and (c) consolidate the Department of Public Property with the Department of Records.

7. The charter extends the use of citizen boards to the management and operation of city institutions;

the function of these *departmental* boards and commissions is an *administrative* one. Others engage in *quasi-judicial* activities, and a few serve as *policy-making bodies*.

Suggestions for changing the status of some of the departmental boards—particularly those performing administrative functions—stem largely from the view that the charter's arrangements in this area apparently lack that precise definition of operating responsibility which, elsewhere in the city government, eliminates rather than engenders friction. In any amendment of the charter, these arrangements could be improved to reduce friction by making the administrative boards either wholly independent or wholly dependent.

8. The Mayor's control in the financial area is strengthened through a centralized and integrated finance office.

The major observation in this area of administration is that any future charter revision should weigh carefully the advantages to be obtained by the continuation of the present dual pre-auditing arrangements against a separation of pre-audit from post-audit, leaving the former to the Director of Finance and the latter to the Controller.

9. The Mayor's control of the quality of administration is strengthened through charter requirements for an effective civil service system.

Proposed charter changes reflect the elements of the continuing controversy between advocates of rather rigid application of the merit system and proponents of varying degrees of patronage and political activity.

Suggestions for a more positive personnel program do not call explicitly for charter changes.



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No. 2,161

SHOULD MAGISTRATES BE LAWYERS?

Philadelphia Not In Step; Few Large Cities Still Have Lay Judges

Of all the judicial officials in Philadelphia's court system, only magistrates need not be "learned in the law." Nevertheless, their functions—providing preliminary hearings to those accused of indictable offenses and conducting trials in cases of violations of city ordinances and certain state laws, and in small civil suits—are vital to the metropolitan community, and the importance of their conduct in shaping the attitude of the people toward the law and its enforcement cannot be overestimated.

Statutory Provisions

The only qualifications required by law of magistrates are those prescribed in the 1927 Magistrates' Act: age 35, five years' residence in Philadelphia, and citizenship for ten years. Magistrates are paid \$9,900 a year (\$7,500

This is the sixth in a series of articles based on a study financed by the Thomas Skelton Harrison Foundation. Earlier issues include CITIZENS' BUSINESS Nos. 2,133S, 2,142, 2,148, 2,153, and 2,159.

Pennsylvania Economy League
1933 • Silver Anniversary • 1958

salary and \$2,400 for "expenses"), and, while in office, are not permitted to conduct or engage in any other business or profession.

Five Largest Cities

A review of current practice in other parts of the country shows that Philadelphia is one of the few large cities which still has lay judges in its judicial structure.

Of the five cities in the United States with more than 1,000,000 population, Philadelphia alone still has laymen conducting preliminary hearings, trying relatively minor offenses, and trying small civil cases. The following are the courts of first instance in each of the four other cities with 1,000,000 or more population:

New York City. Criminal matters are handled by City Magistrates' Courts, manned by lawyer-magistrates appointed by the mayor. Small civil cases are handled by a Municipal Court, whose judges must also be lawyers.

Chicago. In Chicago, the court of first instance in criminal and civil matters is the Municipal Court, which superseded Chicago's justices of the peace in 1905. The judges of the Municipal Court are required to be lawyers.

Los Angeles. Los Angeles also requires the judges of its Municipal Court—where functions comparable to those of Philadelphia's magistrates are performed—to be lawyers.

Detroit. The court with criminal jurisdiction in the first instance is the Recorder's Court; small civil matters are handled by the Common Pleas Court. Common pleas judges are required by statute to be lawyers; although not required by statute, election to a judgeship on the bench of the Recorder's Court traditionally has been limited to lawyers.

Other Philadelphia Judges

The judges of the Courts of Common Pleas and the judges of the Orphans' Court are required to be "learned in the law" by the state constitution and statutes; the judges of the Municipal Court are required to be "learned in the law" by the 1913 act creating that court. (The state Superior Court has held the term "learned in the law" to mean that the person is "either admitted or entitled to be admitted without examination to practice as an attorney at law in the state.")

500,000 to 1,000,000 Population

When the practice in the 13 cities in the United States with populations of 500,000 to 1,000,000 is examined, it is clearly seen that the lay judge is being consistently replaced by the lawyer-judge, with Baltimore, Houston and Pittsburgh standing out as the only three exceptions.

Actually, Baltimore has moved far in the direction of providing professional judges in courts of first instance, since the judges who handle small civil cases (the People's Court) and traffic cases (the Traffic Court) must be lawyers. Minor criminal cases, however, are heard by police magistrates, who are not required to be lawyers.

In Pittsburgh, criminal cases are heard mainly by police magistrates (appointed by the mayor), and small civil cases, by elected aldermen. Legal training is not required for either of these offices.

In Houston, salaried lay justices of the peace still have jurisdiction in some civil and criminal cases.

In each of the other 10 cities within this population class, functions comparable to those of Philadelphia's magistrates are performed by courts composed of lawyer-judges. These cities are Boston, Buffalo, Cincinnati, Cleveland, Milwaukee, Minneapolis, New Orleans, St. Louis, San Francisco, and Washington, D. C.

In each of these cities, excepting Boston, statutory or constitutional provisions make a lawyer-judge mandatory in the courts of first instance. In Boston, although there is no statutory or constitutional requirement that judges of the Municipal Court (Boston's court of first instance) be lawyers, customarily only lawyers are appointed to judgeships.

Philadelphia Out of Step

This review shows that by retaining the lay magistrate, Philadelphia's practice is at variance with that of the majority of the largest cities in the United States. In Philadelphia, neither law nor tradition requires legal training as a qualification for the magistracy. Only three of the 93 magistrates who have served at any time during the period since 1930 were lawyers; two of them are in office at the present time, and the third is now a judge of the Municipal Court.



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DO WE NEED MORE MAGISTRATES?

BMR-PEL Study Shows That City Has Too Many Magistrates Now

In 1953, 1955, and 1957, the State Legislature considered bills proposing that the number of Philadelphia magistrates be increased from 28 to 31. Further, the present Chief Magistrate is on record as favoring the creation of seven additional magistracies. To justify the latter proposal—which would give the city 35 rather than 28 magistrates—the Chief Magistrate states that “the increased burden of the Traffic Court makes it almost a virtual impossibility for the Magistrates’ system in Philadelphia to function adequately with its present limited membership.”

Not Justified by Workload

The variously-sponsored proposals for increasing the number of magistrates have not been accompanied by data on the magistrates’ workload. The BMR-PEL, in preparing its report on *The Magistrates’ Courts of Philadelphia*,* did

* Copies of the report will be available shortly.

This is the seventh in a series of articles based on a study financed by the Thomas Skelton Harrison Foundation.

compile data showing the amount of time which the magistrates spend holding sessions in the police courts, in their own courtrooms, and in the traffic court. The facts thus developed do not justify a 25% increase—or any increase—in the number of magistrates. *Rather, they show that the number of magistrates should be decreased.*

Time Spent in Police Courts

Sessions are held seven days a week in the 11 divisional police courts and six days a week in the central police court in City Hall. The magistrates are assigned in rotation to these courts, usually for one-month periods.

Timings of police-court hearings throughout the city indicate that the average length of a session is about 50 minutes. Together, the regularly scheduled sessions in the 12 police courts total about 10 hours a day or 70 hours a week. The magistrates spend perhaps another five hours weekly at special sessions held in hospitals, prisons, and elsewhere. Thus, during an average week, the minor judiciary spend only 75 hours at police court hearings.

In Their Own Courtrooms

The magistrates hear three types of cases in their own courtrooms: (1) code enforcement cases brought by the City Solicitor; (2) privately-prosecuted criminal cases; and (3) civil cases.

City Cases. In 1957, the City Solicitor instituted in the magistrates' courts about 13,000 cases involving alleged violations of ordinances and statutes. For these hearings, about 275 court sessions were scheduled before nine of the 28 magistrates. The average session took 2 to 2-½ hours, with the weekly total for all sessions being 10 to 15 hours.

Privately-Prosecuted Criminal Cases. Criminal cases heard by the magistrates in their own courtrooms involve mainly persons arrested on warrants issued on the oath of a private prosecutor. Between 2,000 and 3,000 such cases are heard annually. Since only 10 to 1

minutes are spent on each case, the total demand on the magistrates' time is no more than 15 hours weekly.

Civil Cases. In 1956, 25 magistrates reported issuing 12,551 summonses in civil cases. The number of summonses issued ranged from a low of one summons for each of three magistrates to a high of 3,951 for a fourth, with the median at 152 summonses per magistrate. The great bulk of the summonses—78% of the 12,551—were issued by only four of the 25 magistrates reporting.

No statistics are available to show the actual number of hearings held in civil cases. However, the number of civil cases instituted in the magistrates' courts each year is about the same as the number of city cases (13,000) brought by the City Solicitor. Thus, it is liberal to estimate that the time spent weekly by the magistracy in hearing civil cases is 15 hours, which is equivalent to the maximum time estimated for hearing city cases.

Traffic Cases

Four magistrates are assigned to the traffic court for five mornings a week. Sessions are held simultaneously in four courtrooms, with each magistrate holding two one-hour sessions—the first at 9 A.M. and the second at 11 A.M. The total amount of time spent in traffic court by the four magistrates is about eight hours a day or 40 hours a week.

Summary of Workload

In summary, the *total* time spent in court sessions by *all* 28 magistrates is only about 160 hours a week: 75 hours in police court, 15 on city cases, 15 on privately-prosecuted criminal cases, 15 on civil cases, and 40 in traffic court. Obviously, 28 magistrates are not needed to hold court sessions totaling only 160 hours a week (8,320 hours a year), or averaging about 5-¾ hours a week for each magistrate.

"Justice" Too Speedy?

One aspect of the magistrates' court proceedings which strikes an observer is the excessive speed of the hearings. If the hearings were con-

ducted in a more adequate manner and more time were given to each case, the court-session workload would perhaps be doubled, totaling 320 hours weekly.

Moreover, a magistrate is supposed to be available 24 hours a day at the central police court in City Hall to take bail, sign copies of the charge, and perform related work. If this assignment were fulfilled, 18 more hours daily—or 126 hours weekly—would be needed.

16 Rather Than 28

Using 320 hours as an outside estimate of the time required weekly for court sessions and adding to it 126 hours weekly for manning the City Hall court, the total time required for court sessions would be 446 hours a week, or 23,192 hours annually. If each magistrate held court sessions and performed standby duty for an average of 35 hours a week for 44 weeks a year (1,540 hours a year), about 15 magistrates would be required. If the Chief Magistrate were to devote most of his time to supervision and direction of the courts—as is desirable—one additional magistrate would be needed. *Thus, under the most liberal estimate of workload, the maximum number of magistrates required in Philadelphia is 16, instead of the 28 presently elected.*



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A 'SIDELIGHT' ON SURPLUS

City's Policy of Planned Surplus Helps Realize Savings in Interest Costs

An unlooked-for dividend of four-year budgeting materialized last month when the City of Philadelphia sold \$31.9 million in 25-year and 30-year general obligation bonds. The total interest charges over the life of the bonds will be \$14.2 million, or a net interest cost of 2.95%.

Had the city been obliged to sell these securities last October as originally planned the total interest charges would have been approximately \$19.0 million, or roundly \$5 million more than the actual cost.

Effect of Planned Surplus

Six years ago, when the city Administration instituted the "quadrennial budget"—a plan which provides that surplus be developed in the early years of the quadrennium for use later in the four-year period—it was not anticipated that such surplus would ever be used to bridge a high interest hurdle in the bond market, yet this is

precisely what has happened. Ample cash reserves made it unnecessary for the city to market its bonds last fall when an interest rate of approximately 3.75% would have obtained.

Good Cash Position

This favorable development serves once again to focus attention upon the city's achievement in having closed each of the 17 past years in good financial condition; i.e., with a surplus of current cash on hand over current liabilities at the year-end. In fact, the net cumulative surplus at December 31, 1957, was one of the largest in the city's history, totaling \$15.2 million for the three main funds—the general, water, and sewer funds. As will be noted from the table, the surplus derives from the general fund (\$13.8 million) and the water fund (\$1.5 million), the sewer fund having closed the year with a cumulative deficit of \$0.1 million. (An additional \$8.5 million appropriated to the Municipal Retirement System in 1957 to build up pension reserves has not been classified as “surplus.”)

City Income and Outgo

Total income and outgo in the city's three main operating funds continue to rise annually. Income has increased from \$126.0 million in 1950 to \$223.7 million in 1957—up \$97.7 million (78%) in the period; outgo has risen from \$124.3 million in 1950 to \$225.2 million in 1957, an increase of \$100.9 million (81%). It should be noted that income and outgo in the general and water funds reached all-time “highs” in 1957, as did sewer fund outgo. However, sewer revenues dropped from a 1956 peak of \$10.1 million to \$9.6 million in 1957, due mainly to the state's having delayed (until 1958) payment of a \$0.6 million grant for sewage treatment.

This Is "Financial Management"

Only with a centralized financial organization—such as Philadelphia now has—can alert administrators realize savings such as have just been achieved by the re-scheduling of the city's bond sale. This very satisfactory turn of events contrasts markedly with the state of affairs described in a BMR report published in 1950 when the Home Rule Charter was in the drafting stage:*

An examination of the present organization in Philadelphia's government for the performance of . . . financial administration shows that it is unnecessarily disintegrated and complicated. This structure results in confusion as to the responsibility of important officials at key points in the fiscal process. It virtually precludes any use of financial administration as an effective over-all management device—so necessary in a large government.

* A Proposal for Improved Financial Administration in Philadelphia.

Effect of New Rates

The 1957 general fund revenues totaled \$200.9 million, which is \$29.5 million (17%) higher than the 1956 figure. Rises in the rates of both the real property tax (from \$1.70 to \$2.06 per \$100 of assessed valuation) and the income tax (from 11¼% to 11½%) were responsible for the bulk of the increase in general fund revenues. Amusement tax revenues for 1957, on the other hand, decreased \$1.2 million (46%) from 1956 as a result of a 50% rate cut, effective January 1, 1957.

City Surplus

Surplus, in municipal finance, generally means the cash available for operations in excess of that which is required to satisfy recorded commitments at the close of the year. This surplus

is cumulative, reflecting the results of each year's operations, as shown below (in millions) :

	General Fund	Water Fund	Sewer Fund	Total
1953				
Year's own surplus	+ 6.8	+0.8	+0.7	+ 8.3
Cumulative surplus at 12/31	7.7	0.8	2.2	10.7
1954				
Year's own surplus	— 0.8	+0.7	0.0	— 0.1
Cumulative surplus at 12/31	6.9	1.5	2.2	10.6
1955				
Year's own surplus	+ 4.9	+0.9	—0.6	+ 5.2
Cumulative surplus at 12/31	11.8	2.4	1.6	15.8
1956				
Year's own surplus	0.0	+0.3	—0.2	+ 0.1
Cumulative surplus at 12/31	11.8	2.7	1.4	15.9
1957				
Year's own surplus	+ 2.0	—1.2	—1.5	— 0.7
Cumulative surplus at 12/31	13.8	1.5	—0.1	15.2

Surplus in Prior Years

As noted, the city closed 1957 with a cumulative cash surplus for the seventeenth consecutive year. Thus, substantial cumulative cash surpluses—in the three main funds—are not news, as the following table indicates (in millions) :

1940	\$-3.0	1946	\$ 4.6	1952	\$ 2.4
1941	2.3	1947	6.1	1953	10.7
1942	6.2	1948	4.0	1954	10.6
1943	4.8	1949	0.1	1955	15.8
1944	3.0	1950	2.0	1956	15.9
1945	3.6	1951	2.8	1957	15.2



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GRANDFATHER'S OLD CLOTHES

In the year 1873 certain eminent citizens decided on a system of courts of justice for the people of Pennsylvania, and wrote their decision into our state Constitution. The system is described in great detail. After providing that—

The judicial power of this commonwealth shall be vested in a Supreme Court, in courts of common pleas, courts of oyer and terminer and general jail delivery, courts of quarter sessions of the peace, orphans' courts, magistrates' courts, and in such other courts as the General Assembly may from time to time establish—

the Constitution goes into particulars, defines the structure of the court of common pleas for Philadelphia, provides for subordinate officials, such as prothonotaries and court clerks, and generally describes the entire state judicial system. At the time, this system was supposed to have been very well thought out, and to be entirely adequate to the needs of the people.

But "the world do move." A half-century has gone by. Problems confront this generation

never dreamed of by the men of '73. Yet the system of courts of justice defined by them in the Constitution has not moved—it has remained rigid, fixed, and every effort to do away with any portion of it has met with violent opposition.

Hold One Minute . . .

The scene is the same, but the actors and the time are different—in fact 38 years later. Yet, this text from a CITIZENS' BUSINESS issued February 19, 1920, and reprinted today—June 9, 1958—is as pertinent now as when first published. The views expressed are vital today as another Commission on Constitutional Revision weighs various approaches to bring about a modern and efficient state judicial system.

As a result, the Constitution has “hobbled” our local common pleas courts, so that proper distribution and speedy turnover of work is impossible. The Constitution has fastened on Philadelphia a pernicious system of elected magistrates, who—with certain notable exceptions—have been tools of the political leaders to whom they owed their political existence. . . .

A Few Patches Proposed

The commission on constitutional revision, now sitting at Harrisburg, are considering certain changes in our state judicial system. One proposal is to merge the five courts of common pleas of Philadelphia into one. Another is to abolish the office of magistrate—and create that of “District Peace Judge.” The judges of the Superior Court—not mentioned in the present Constitution—are to be given constitutional status, and their term of office lengthened. Other changes in detail have been suggested, but no final recommendations have as yet been made.

New Garments Needed . . .

The provisions that we are placing in the Constitution today, may vitally affect the lives of our children and grandchildren. Who can say what their problems will be? Are we sure that they will require "courts of oyer and terminer and general jail delivery"? Will "District Peace Judges" fully meet the needs of the poor who may crowd their great cities? Who can say that *any* detailed judicial system which we draw up, no matter how conscientiously and carefully, will supply the requirements of this growing commonwealth for the next fifty years?

Let Us Cut the Cloth As We Need It

Human wisdom cannot foresee the grave questions that are bound to arise in our complex civilization in the period during which we may reasonably expect our new Constitution to be in force. When once adopted, experience has proved that amendment is exceedingly difficult. We must have a judicial system capable of growth and adjustment. The problem of seeing that justice is done between man and man is of the most profound nature, requiring constant study, the results of which must be subject to constant revision and improvement. Such a study is not the proper work of a constitutional commission. It is the work of the legislature; the details of our judicial system must be made matter of *law*, not of constitutional provision—and then, if a law is found to be unwise or unworkable, if a court or an official is found to be unnecessary, it is the simplest possible procedure for the legislature to remedy the condition by passing a new law. The Constitution should contain only the broad outline of the judicial plan, stated in most general terms, with

full authority given to the legislature to make all details for that plan.

A Pattern

The problem confronting our commission at Harrisburg today is not new. Over a century ago, it faced the men who met in Philadelphia to frame a constitution for the United States. The reports of their debates show that they had the same temptation to fasten a rigid judicial system on a growing America. But the temptation was recognized and resisted; and the result of their labors was one simple sentence. It stands in our national Constitution today, having met the needs and stood the tests of 130 years. It reads as follows:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the congress may from time to time ordain and establish.

We earnestly recommend to the commission that wording similar to this be placed in our state Constitution, that all mention of the details of legal machinery be omitted therefrom, and that broad powers be conferred on our legislature to provide courts of justice for our people as need for the same shall from time to time arise.

N. B. Reprinted from CITIZENS' BUSINESS No. 404 of Feb. 19, 1920.



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OVERHAULING THE MINOR JUDICIARY

BMR-PEL Report Proposes Remedies for Ills Besetting Magistrates' Courts

If Philadelphia is to have fair and effective administration of preliminary criminal and petty civil and criminal justice, one problem which must be solved is the magistrates' courts system. *The Magistrates' Courts of Philadelphia*,* a 240-page report made public today by the BMR-PEL, pinpoints the specific means by which the present deficiencies of these lower courts may be remedied.

Re-Studied After 25 Years

The new publication—a revision of a 1931 report† bearing the same title—is based on a two-year study of the minor judiciary. Work on the revision was financed in part by a grant from the Thomas Skelton Harrison Foundation, an agency created to foster good government in

* A limited number of copies are available without charge to those who reside or work in Philadelphia; to others, the charge is \$1 a copy.

† The 1931 report was written by Spencer Ervin, Esq., and published by the Thomas Skelton Harrison Foundation.

Philadelphia. The keynote of the revised report is set by this excerpt from the preface:

It is not to the credit of the community that the fundamental question regarding our minor judiciary is still substantially the same in 1958 as it was in 1931. At that time the question was asked: "In a large modern city, can justice in petty civil and criminal cases and in the preliminary hearings in serious criminal cases be effectively and equitably administered by officers who are essentially urban justices of the peace?" The conclusion today is the same as that of a quarter century ago: It is a definite and resounding "No!"

The early chapters of the revised report sketch the history of the magistrates' courts and describe the functions of the magistrates and their place in the scheme of justice. Deficiencies of the magistracy—such as improper dispositions of criminal cases, effects of political influence, and poor money-handling practices—are discussed in the chapter titled "The Magistrates' Courts in Operation." Three further sections are devoted to analyses of the qualifications and environment of the magistrates and the court machinery.

To Remedy Deficiencies

Of major importance to the community are the recommendations contained in the final chapter of the report, since "the accomplishment of these changes will remedy most of the deficiencies connected with the magistrates' courts." The specific measures proposed by the BMR-PEL include a number which would require revision of the state constitutional provisions governing the magistrates' courts—a notoriously time-consuming procedure. Noting that more immediate and "*substantial improvements can be made within the present constitutional structure governing the magistrates' courts,*" the report outlines an 18-point program for improvement within the present constitutional framework. Additionally, it is suggested that the "magistrate

A Gold Medal for Distinguished Service

Recently, Philadelphia's Deputy Director of Finance in charge of accounting received the "Louisville Award" for his "outstanding contribution during 1957 in the promulgation and installation of a procedure of mechanization of real property assessment records and controls, and production of the annual tax roll of the City of Philadelphia." The citation refers to the recent conversion from manual to machine methods in handling real property records of the Board of Revision of Taxes.

The gold medal—a national award for distinguished service in the field of governmental finance—was presented by the Municipal Finance Officers' Association.

themselves could put into effect many improvements . . . if they decided to put their own house in order."

Major Recommendations

Some of the major recommendations in the 18-point program for improvements within the present constitutional structure* are as follows:

- *Raise qualifications.* Future candidates for the magistracy should be lawyers or should be required to demonstrate legal knowledge by passing a qualifying examination.

- *Increase salaries.* If qualifying standards are raised, increase magistrates' compensation from the present \$9,900 to at least \$15,000 annually so as to attract and retain men of stature.

- *Permit bi-partisan support.* Allow candidates for the magistracy to be nominated by more than one political party. Thus amending the election code would help develop a "sitting magistrate" principle and simultaneously weaken the "political bonds which fetter the magistrates."

- *Equalize workload.* This can be accomplished by establishing two new divisions—one for "city" (code enforcement) cases and one for civil cases—and requiring that the magistrates hearing these types of cases be assigned in rotation by the Chief Magistrate.

- *Require D.A. to be represented at all hearings.* All hearings, preliminary and summary, in the police courts

* The proposals for constitutional changes will be discussed in a subsequent issue of CITIZENS' BUSINESS.

should be covered by assistant district attorneys. Having found that *preliminary hearings* of indictable offenses are generally better conducted when a representative of the D.A. is present, the BMR-PEL believes that "some measure of improvement in the *hearing of summary offenses* might be forthcoming if assistant district attorneys participated in the proceedings."

- *Reduce number of police courts.* The geographical distribution of arrests in the city would seem to warrant operation of only five divisional police courts and the central police court in City Hall, rather than 12 police courts as at present. Such a reduction in the number of police courts would be time-saving for the magistrates, defense counsel, et al., and would also make it easier for the D.A., the voluntary defender, and the various social agencies to cover these courts' sessions.

- *Institutionalize criticism.* The establishment of a standing committee of the Philadelphia Bar Association—with functions to (1) appraise the operation of the magistrates' courts, (2) evaluate candidates seeking election, and (3) suggest candidates to the Governor when there are vacancies in the magistracy to be filled by appointment—would constitute a continuing pressure for improvement.

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September 8, 1958

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Rx: FOR MAGISTRATES

SEP 26 1958

**Constitutional Change Needed For
'Fullest Measure of Improvement'**

"The fundamental complaint against the magistrates' courts is that they do not *regularly* give to Philadelphia fair or effective administration of the judicial functions entrusted to them." In its recently published report, *The Magistrates' Courts of Philadelphia*, the BMR-PEL sets forth an 18-point program of improvements which could be made within the present constitutional framework.* However, the report points out, "the fullest measure of improvement can be brought about only by changing the constitutional structure governing the magistrates' courts," thus enabling the State Legislature to supplement the 18 recommendations with additional measures.

Waiting Upon Revision

Therefore, to permit correction of the exist-

* This is the ninth in a series of articles based on a study financed by the Thomas Skelton Harrison Foundation; the preceding issue discussed the major recommendations for improvements which could be effected within the present constitutional structure.

ing deficiencies in the *organization* and *manner of selection* of magistrates, Article V, Section 12, of the state constitution should be revised.

Further aspects to be considered if such a revision is undertaken are the lengthening of the magistrates' *term of office* and the broadening of the civil *jurisdiction* of their courts.

The specific proposals for improvement via constitutional amendment are summarized below.

- *Establish a single magistrates' court, leaving to the State Legislature the determination as to the number of magistrates.* A firm basis would thus be set for giving the chief magistrate the responsibility for over-all administrative supervision of the court, and he could organize the business of the court—both civil and criminal—to make the best possible use of the available magistrates. The present constitutional provision requiring *separate* courts, manned by individual magistrates, militates against efficient organization of their work. With a single court, as proposed by the BMR-PEL, branch courts could be set up in neighborhoods where required; also, specialized divisions could be established for large groups of cases—such as traffic violations—and magistrates could be assigned in rotation to all branches and divisions of the court as needed, thus equalizing the workload.

- *Eliminate the present constitutional provision for limited voting in the election of magistrates.* The elimination of this provision would permit the establishment of a “sitting judge” concept in the magistrates' courts and help divorce the magistracy from politics. (Under the present provision for direct election of magistrates under a system of limited voting, the magistrates are inevitably plunged into politics.)

- *Apply the “Pennsylvania Plan” to the selection of magistrates.* This would be “a mor

"... Well Beyond The Studying Stage"

The August Grand Jury's recommendation that the operations of the city's magistracy be investigated by a special grand jury—or, alternatively, by the Board of Judges or the Bar Association—has found little favor with public officials or with the press. As noted editorially by The Sunday Bulletin on September 7, 1958:

All the many weaknesses of the present magisterial setup have been disclosed again and again through the years. Only this summer there was a comprehensive report from the Bureau of Municipal Research and Pennsylvania Economy League, after a study two years in the making. . . . The Bureau made precise recommendations for improvement. There is little likelihood that a special Grand Jury probe could add to the picture. . . . So far as investigating goes, the magistrates have had it. The need now is for improving the breed, and some steps have been taken in this direction by the magistrates themselves. It is doubtful that self-cure will be enough. The remedies proposed by the BMR-PEL could be set in motion by the Legislature—and many of them ought to be.

comprehensive and far-reaching approach to the problem of divorcing the magistrates from politics." If it were applied to the selection of magistrates, each magistrate would be seated initially by appointment and, after a period of perhaps a year's service, the electorate would determine whether to retain him in office for a full term. If the majority voted against his retention, a vacancy would exist, to be filled by appointment.

- *Consider lengthening the term of the magistrates to equal those of the judges of other courts in Philadelphia.* The present term of office of magistrates is six years; the term of judges of the common pleas, orphans, and municipal courts is 10 years.

- *Permit the State Legislature to determine the civil jurisdiction of the magistrates.* At present, the constitution limits Philadelphia's

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Rx: FOR MAGISTRATES

SEP 26 1958

Constitutional Change Needed For 'Fullest Measure of Improvement' UNIVERSITY OF ILLINOIS

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Further aspects to be considered if such a revision is undertaken are the lengthening of the magistrates' *term of office* and the broadening of the civil *jurisdiction* of their courts.

The specific proposals for improvement via constitutional amendment are summarized below.

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- *Consider lengthening the term of the magistrates to equal those of the judges of other courts in Philadelphia.* The present term of office of magistrates is six years; the term of judges of the common pleas, orphans, and municipal courts is 10 years.

- *Permit the State Legislature to determine the civil jurisdiction of the magistrates.* At present, the constitution limits Philadelphia's

magistrates' courts to a civil jurisdiction "not exceeding one hundred dollars." No such constitutional limitation is placed on the civil jurisdiction of the minor judiciary in other parts of the state; instead, this is left as a matter for the determination of the State Legislature.

Type of Amendment

To make possible the foregoing proposals, the BMR-PEL recommends that Article V, Section 12, of the state constitution, as revised, be of a broad permissive type, empowering the State Legislature to establish the details of judicial administration in Philadelphia's magistrates' courts.

The report also suggests that any over-all revision of the judiciary article of the state constitution should be directed toward "an even broader permissive framework applying to the state judiciary as a whole. In other words, we would favor a provision similar to that in the constitution of the United States, empowering the legislature to determine the structure of the courts of primary and general jurisdiction."



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TRASH

Whose Trash Is
To Go Where?

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One of the inevitable by-products of human habitation is a great deal of refuse, objectionable sometimes only from the esthetic point of view, sometimes to the olfactory nerve, and sometimes running a great deal deeper to fundamental health issues.

We are advised that some of the American Indians were very tidy in the handling of their disposal problems. Others resorted to the simple technique of staying around just as long as they could and then moving on.

Open Land Becomes Scarcer

Disposal of refuse under all circumstances requires open land. So long as Philadelphia or Darby Township or Upper Darby or Coatesville have open land within their own political boundaries, arrangements for disposal can be, and usually are, internal "fights." Although incinerators help reduce the volume of refuse, there

Pennsylvania Economy League

1933 • Silver Anniversary • 1958

is a substantial irreducible minimum which remains to be disposed of.

Uninhabitable lowlands—formerly viewed as nuisances, especially if adjacent to populous areas—can be looked on as a blessing in disguise in that they permit nearby and relatively inexpensive disposal without the need for complicated intergovernmental negotiation.

But eventually all of the readily accessible lowlands are filled up or, occasionally, some huge undertaking will place the lowlands “off limits” for disposal purposes. Here in Philadelphia, the Eastwick Redevelopment Project is a case in point, in that all of the refuse dumps presently operating in the area are scheduled to be eliminated.

But the problem of finding disposal sites is not limited to the “core” city in this or any other metropolitan area. Witness the current difficulties of a number of the densely populated Delaware County communities or of some of the less densely populated Lower Bucks County communities. Then there are the kinds of problems confronted by small metropolises such as Coatesville.

Anywhere But Here

The present dispute over dumping in Eastwick helps to emphasize the desire of all of us to dump our trash in the other fellow’s backyard. As other examples, the Coatesville area is obliged to seek sites some distance from its centers of population, and Philadelphia is currently dumping a substantial portion of its refuse in Lower Bucks County.

A recent ordinance of Philadelphia’s Council prohibits other jurisdictions’ dumping any refuse — incinerated or otherwise — within the city

limits.* Yet, Philadelphia has from time to time carried on negotiations looking toward acquisition of large disposal sites outside Philadelphia, some of which are in New Jersey.

Philadelphia, which has spent substantial amounts of money to end open-dump burning within its city limits, is understandably irked at nearby neighbors who continue such practices, and from which smoke, ashes, and odor freely invade the central city. Conversely, the hard pressed city may soon be confronted with substantial difficulties in arranging for disposal of both its incinerator ash and its sewage sludge.

A Fundamental Answer Required

Some tend to deprecate discussions of metropolitan problems as being figments of the imaginations of political scientists who have little more to fret about. From any aspect, however, it is fairly apparent that the problem of refuse disposal cannot be so dismissed and, further, it is too big to be "swept under the rug." It is also apparent that burning is not quite the answer, though one might be tempted to be superficial and dub it "the burning problem."

It is a serious problem. It deserves a serious answer. It is entirely possible that despite local pressures to the contrary, Philadelphia will be obliged to reserve some of its own land for the disposal of some of its own refuse unless it is able to negotiate sound and fundamental permanent arrangements with its neighbors.

While it is possible for Philadelphia to adopt restrictive ordinances directed at neighboring municipalities, it is equally possible for other jurisdictions to retaliate in kind. It is the

* Ordinance of June 16, 1958, which becomes effective January 1, 1959.

responsibility of officialdom, both within the core city and within the other counties and municipalities to work out a fundamental answer. Resorting to erection and destruction of a succession of barricades, to injunction proceedings, and the like may provide temporary relief to some concerned, but these methods do not constitute the constructive solution to which citizens—paying such taxes as they do for local government—are entitled.

If local governments continually fail to achieve mutually acceptable agreement on problems of refuse disposal, perhaps the intervention of a further authority—the state government—will be required to still the squabbling.



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ELBOW-ROOM BUDGETING

Pension Item in City's 1959 Budgets Is 20% Less Than 1958's Amount

A fiscal officer of any enterprise—whether it be private or public enterprise—is grateful when he finds that at least one element of his budget-making chores allows him some flexibility or maneuverability.

For its proposed 1959 budget, the Philadelphia City Administration found that the pension-financing item was such an elbow-room element. As a result, the 1959 *general-fund* appropriation requested for pensions is substantially less, by \$3.8 million, than the 1958 amount. Thus, this cut in the pension item accounts for more than half of the \$6.4 million "reduction" in 1959's total general fund budget as compared with 1958's total general fund appropriation.

Happily for the Administration, a persuasive rationale for the reduced pension appropriation is at hand. And the rationale is presented by the Administration in its budget document.

First, a Few Statistics

In 1958, the total appropriations for support of the city's retirement systems equaled about *\$18.0 million* (general, water, and sewer funds combined). This represented a continuation of the policy of the Council and the Administration to bolster the solvency of the pension funds, in sharp contrast with the long-standing practice in earlier years of keeping the funds on a virtual hand-to-mouth basis. For example, in 1950 the city's appropriations totalled only *\$1.4 million*. Subsequently, they were gradually increased, rising to *\$7.5 million* by 1956. It was not until 1957—when the appropriations for that year totalled *\$17.6 million*—that the policy was fundamentally changed.

For 1959, the Administration is requesting *\$14.5 million* in total pension appropriations, or *\$3.5 million* less than 1958. An appraisal of the adequacy of this request will vary with one's pension-financing philosophy.

Just Right?

Those who agree with the Administration that the request is just right will say that the city has the responsibility of assuring that the pension systems' total annual income should equal what the actuaries call "normal actuarial cost" (similar to current premium payments on an annuity policy). According to the Administration's calculations, the city's share of the normal cost for the 4-year period 1957–1960 equals *\$64.7 million*. Of this amount, *\$35.6 million* was appropriated for 1957 and 1958. This leaves *\$29.1 million* payable for 1959 and 1960, or *\$14.5 million* in each of the two years.

Too Much?

Some critics will say that the Administration is asking for entirely too much money. Generally

their argument would be that the city has no need to follow actuarial principles in financing the municipal retirement system. They would like to return to the pattern of previous years when the city appropriated just about enough to enable the systems to meet each year's cash needs.

If the city were to return to that practice, its appropriation for 1959 could be reduced to about \$10.0 million or even less, depending on what was done with the system's assets and the employees' current contributions.

Too Little?

On the other side of the barricades are those who would argue that the city should follow insurance-company principles of pension finance. As a *minimum*, they would "stabilize the actuarial deficit," i.e., require the city to pay not only the normal cost requirement but an additional amount equal to interest on the "actuarial deficit" (the additional amount of reserves which would have been on hand if the systems had been maintained on a fully funded basis). As a *maximum*, they would "liquidate the actuarial deficit," i.e., pay the normal cost and provide for funding the actuarial deficit over, say, a 20-year period.

In this view, the minimum would require for 1959 an appropriation of about \$23.5 *million*; the maximum, about \$30.0 *million*.

Incidentally, this school of thought may take some comfort from the probability that the \$14.5 *million* requested for 1959 would actually provide for something in excess of the normal cost. In calculating the normal cost, the Administration evidently did not take into account the fact that a substantial number of city employees are now members of the "new" pension divisions, which have a lower normal cost than the "old" divisions. It may be estimated that this factor reduces the

city's 1959 normal cost requirement to about \$12.5 million. Thus, the \$14.5 million requested for 1959 provides, in effect, for the payment of interest on part of the actuarial deficit.

Coming Home to Roost

Whatever approach one takes on the pension-financing item, one thing is clear. For many years Philadelphia has been saddled with unduly liberal municipal pension systems, and the burdensome costs of these systems are now coming due.

In a belated but sensible move, the city in 1956 revised its pension provisions whereby an equitable but less liberal set of benefits was provided for all employees entering city service after January 1, 1957. This will tend, in the long-run, to reduce the pension costs. Unfortunately, the 1956 reform has been undone to a considerable degree by Council's adoption this past summer of an exceptionally liberal combination of municipal pension benefits and social security benefits for general employees.

Here's Our New Address

Starting November 17, 1958, the BMR-PEL will be doing business at its new location: 12th Floor Liberty Trust Building, Broad and Arch Streets Philadelphia 7, Pa. (Same telephone: LOcust 4-6250.)



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No. 2,169

THE UPWARD SPIRAL

Noting Further Rises in City Employment And in Cost of "Personnel Package"

FOLLOWING the trend set in recent years, the Philadelphia city government's complement of permanent, full-time personnel* has again been increased. At July 31, 1958, there were 27,499 such employees on the city's payroll, or 442 (2%) more than were employed at June 30, 1957.

In Six Years—a 20% Increase

From mid-year 1952 to mid-year 1958, the number of permanent, full-time employees has risen by 4,671 (20%), as the table on the next page shows:

* These are the permanent, full-time employees paid out of the various funds in the annual operating budget ordinance; permanent, part-time and temporary employees are also paid out of funds covered in this ordinance, but these groups have been excluded from discussion here, as have those employees paid out of special funds not subject to annual appropriation by the Council (e.g., loan funds).

At June 30	Employees	Annual increase Number (%)	Cumulative change Number (%)
1952	22,828	—Base Year—	
1953	23,565	737 (3%)	737 (3%)
1954	25,101	1,536 (7%)	2,273 (10%)
1955	25,554	453 (2%)	2,726 (12%)
1956	25,904	350 (1%)	3,076 (13%)
1957	27,057	1,153 (4%)	4,229 (19%)
1958†	27,499	442 (2%)	4,671 (20%)

Where They Are Employed

Thirteen of the 63 agencies receiving appropriations in the operating budget ordinance employ 500 or more permanent, full-time employees. These agencies, which account for 23,691 (86%) of the 27,499 in service at July 31, 1958, are:

Police Dept.	5,838
Dept. of Streets	4,526
Phila. General Hospital	2,930
Fire Dept.	2,844
Water Dept.	1,365
Fairmount Park Com.	1,269
Dept. of Public Property	943
Dept. of Collections	890
Dept. of Public Health	765
Free Library	637
Prisons*	565
Municipal Court	564
Dept. of Recreation	555

Viewed by Function or Agency

As already noted, the total number of permanent, full-time employees in the city government has risen fully 20% between 1952 and 1958. However, as the following table indicates, the rate of change varies widely from agency to agency, ranging from a *decrease of 7.9%* in the Fire Department to an *increase of 81.8%* in the four agencies concerned in the licensing and inspection function:

† As of July 31, 1958.

* Includes House of Correction and Holmesburg and Moyamensing Prisons.

“Great Oaks From . . .”

Early in 1954, the city government initiated the practice of contributing toward health and welfare plans on behalf of its employees. For that year, the annual rate of contribution was \$15 for each employee covered under such plans, and the total cost to the city was \$176,235.

The size of the city's annual contribution has increased sharply since 1954, partly because of the introduction in 1956 of a municipally-financed group life insurance program for city employees. As set forth in the operating budget proposed by the Mayor, 1959 appropriations for “employee welfare plans” will total \$2.9 million, \$1.1 million of which represents the premium for group life insurance coverage for approximately 27,000 city employees. Thus, over the six-year period 1954–1959, city spending for employee welfare will have been increased 1629%.

The 1953 cost of the “personnel package” was \$97.8 million; thus, the amount proposed for 1959 represents a 46% increase in spending for this purpose in a six-year period.

Employees and Population

Viewing the trend of municipal employment in somewhat different terms discloses that the city government now has on its payroll 12.4 permanent, full-time employees for each 1,000 city residents; in 1952, it had 10.8 employees for each 1,000 residents.*

* Population estimates for 1952 and 1958 are those of the City Planning Commission and the Chamber of Commerce.

STATEMENT OF THE OWNERSHIP, MANAGEMENT, AND CIRCULATION required by the Act of Congress of August 24, 1912, as amended by the acts of March 3, 1933, and July 2, 1946 (Title 39, United States Code, Section 233) of CITIZENS' BUSINESS, published semi-monthly from September through June at Philadelphia, Pa., for October 1, 1958.

1. The names and addresses of the publisher, editor, managing editor, and business managers are: Publisher, Bureau of Municipal Research and Pennsylvania Economy League (Eastern Division), Towne Building, 1321 Arch Street, Phila. 7, Pa.; Editor Emma L. Bowman, Towne Building, 1321 Arch Street, Phila. 7, Pa.; Managing Editor, none, Towne Building, 1321 Arch Street, Phila. 7, Pa.; Business Manager, none.

2. The owner is: Bureau of Municipal Research, Towne Building, 1321 Arch Street, Phila. 7, Pa. No capital stock.

3. The known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are: None.

4. Paragraphs 2 and 3 include, in cases where the stockholder or security holder appears upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting; also the statements in the two paragraphs show the affiant's full knowledge and belief as to the circumstances and conditions under which stockholders and security holders who do not appear upon the books of the company as trustees, hold stock and securities in a capacity other than that of a bona fide owner.

EMMA L. BOWMAN, Editor

Sworn to and subscribed before me this 29th day of September, 1958.

Richard W. Damerau

[SEAL]

(My Commission expires January 7, 1959)



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November 10, 1958

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LET'S GET RID OF WASTEFUL TAX COLLECTION METHODS

If any advantage can be claimed for the misfortune of hard-pressed municipal budgets, the most outstanding is the fact that it serves to focus attention on the ways in which revenues are dissipated through costly and wasteful administrative methods and procedures.

The manner in which Pennsylvania municipalities collect real estate taxes is a glaring example of such waste. A comparison of the way in which county and institution district taxes are collected in Chester and Delaware Counties provides an impressive demonstration of this point. But before turning to that illustration, a brief description of the various possibilities is in order.

The Present System

Under the present system of local tax collection, almost all county, institution district, school district, third class city, borough, and township real estate taxes are required by law to be col-

Bureau of Municipal Research

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lected by locally elected officials. In a few counties (including Chester County), county and institution district taxes may be collected by the county treasurer instead of locally elected officials. The significance of this exception will be made apparent.

In third class cities and first class townships, the locally elected treasurer serves as collector of taxes; in boroughs and second class townships, a separate tax collector is elected.

In third class cities, the treasurer, serving as tax collector, *must* be paid on a salary basis; in first class townships, the treasurer, serving as tax collector, *may* be paid on a salary basis; in the remaining units—borough and second class townships—the law provides only that the tax collector is to be paid a commission of up to five per cent of all taxes collected. *The prevailing practice in most units is to pay the tax collector on a commission basis.*

Two points may be made with respect to the present law:

1. There is no valid reason or justification in today's times for *elected* real estate tax collectors.

2. Even if there were, the tax collectors should be *salaried* officers, not subject to the evils of the fee system.

Hard (And Costly) Way vs. Simple Way

Under present procedures for collection of real estate taxes, the first step is preparation of assessment rolls on which the taxes are based. The rolls are prepared by an office for this purpose at the county level (except for the 47 third class cities which may have a separate assessor and assessment list for city and school district taxes). The second step is the preparation of tax bills and mailing them to the owner of each parcel of taxable real estate.

The present procedures go at this second step

the hard way. Under prevailing practice, the tax rolls prepared at the county level are delivered to a multitude of taxing authorities who in turn pass them on to tax collectors, who then duplicate much of the work of preparing tax bills, accounting records, periodic reports to taxing authorities, and audit reports. Present procedures also require an excessive amount and duplication of personnel, equipment and supplies.

The simple way would be to prepare the bills and handle the collection at the county level with the county returning the collections to the taxing authorities. Such a system should permit:

1. Maximum utilization of efficient machine methods (which in many cases are costly for the small taxing districts, but highly economical on large volume operations).

2. A considerably reduced requirement for personal services expenditures, with the work performed by experienced, full-time, salaried personnel, at a much lower unit cost.

3. A professionally competent annual audit made at one office. The present unsatisfactory alternatives are either expensive professional audits at as many as 60 offices in a single county or ineffective lay audits.

4. A tremendous reduction in the number of audit reports now required to be made and filed at municipal, county, and state offices.

An Example of Waste

An example of the two different approaches is made clear by comparing the experience of collecting county and institution district taxes in Chester County and Delaware County.

Chester County collects these taxes through the county treasurer's office; Delaware County, through the locally elected tax collectors. In 1956, Chester County collected \$1,667,400 in real estate and personal property taxes at a total cost of \$33,956, which includes the cost of operating the county treasurer's office. *This*

amounts to a cost of \$2.03 per \$100 of taxes collected. In the same year, Delaware County collected \$4,966,600 through locally elected tax collectors at a cost of \$217,468 (including the cost of operating the county treasurer's office). *This amounts to \$4.38 per \$100 of taxes collected.* Payments to local tax collectors alone amounted to \$154,760 or about \$3.11 per \$100 of taxes collected.

Tax administrators prefer a measure of cost per parcel of property. Complete information on the number of assessed parcels is not readily available; however, the number of dwelling units in 1957 was about 52,000 in Chester County and about 147,000 in Delaware County.

It is apparent that the cost of collection per dwelling unit amounted to about \$.65 in Chester County compared to \$1.47 in Delaware County. Therefore, by either measure, the present cost of collection in Delaware County appears to be more than twice that in Chester County.

Yet, county and institution district tax levies represent but a small part of the total taxes levied against the same parcel of property (in southeastern Pennsylvania, less than 10% in many cases). The savings possible by having the county collect all real estate taxes through a centralized office are substantial and significant.



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ZENS' BUSINESS

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Philadelphia

November 24, 1958

No. 2,171

PGH ADMISSION POLICY—I

Regulation Sets Forth Requirements for Admission to City's Municipal Hospital

The Philadelphia General Hospital (PGH) is the oldest hospital in continuous service in the United States. A city-owned institution, it dates back to 1732 when the Philadelphia Almshouse was established as a combination hospital, insane asylum, and poorhouse.

In 1834, the city removed the almshouse to the present location of the PGH Blockley Division, on the west bank of the Schuylkill River. The institution continued to be operated as both almshouse and hospital until 1920, when the almshouse was transferred to the Department of Public Welfare.

Formerly Had Two Divisions

Until recently PGH had two divisions—Northern Division and the Blockley Division. The

This is the first of series of articles based on the BMR-PEL's recent report on Philadelphia General Hospital Admission Policies and Procedures.

Northern Division is now being converted into a detention facility for juvenile delinquents.

The Blockley Division is located at 34th Street and Curie Avenue and has a capacity of 2,100 beds. Most of its beds are for non-communicable acute diseases.

Admission Policy

The present regulation governing the requirements for admission to the Philadelphia General Hospital became effective on July 29, 1954. The regulation states that the admission requirements "shall be interpreted to obtain maximum effectiveness in accomplishing the purpose for which the Philadelphia General Hospital is operated," namely:

- *Providing "hospital care for its [the City of Philadelphia's] sick."*
- *Providing "emergency hospital care for all persons who require such care."*
- *Protecting the health of Philadelphians by providing for isolation and care of contagious cases.*
- *Providing for City employees with service-connected disabilities.*
- *Training "those who would serve the sick and injured."*
- *Advancing the "knowledge of the cause and cure of disease."*
- *Participating in the prevention of disease and in the education of the public.*

The three basic requirements for admission to PGH are (1) need for hospital care, (2) "settlement" in Philadelphia, and (3) "inability to obtain hospital care elsewhere."

Need for Hospital Care. The need for hospital care is to be determined by the Executive Director of PGH, or his designee, on the basis of a medical examination of the applicant.

Settlement in Philadelphia. The applicant must be a Philadelphia resident, as defined by

PGH Report Now Available

A limited number of copies of the BMR-PEL's 65-page report on Philadelphia General Hospital Admission Policies and Procedures are available from the BMR-PEL at \$2.00 each. However, single copies may be obtained without charge by BMR-PEL contributors.

The report is divided into three parts: (1) description and analysis of admission and rate regulations; (2) social and economic data relating to sample of patients; and (3) rating and collection procedures.

Section 501 of the state Act of June 24, 1937 (P.L. 2017), as amended; i.e., a person who establishes "a permanent abode therein" and continues "to reside therein for one whole year."

However, the Executive Director is permitted by the regulation to waive the statutory requirement if evidence is presented and accepted that the applicant actually resides in Philadelphia and intends to continue to do so indefinitely.

Inability to Obtain Hospital Care Elsewhere. It must be established with the Executive Director or his designee that the applicant has not been able to obtain hospital care elsewhere on the basis of "inability to pay, peculiarity of medical need of the individual, or any other reason."

Criteria with respect to "inability to pay" are stated in a separate regulation governing charges for hospital care (to be discussed in a later CITIZENS' BUSINESS).

Exceptions to Admission Requirements

The regulation provides that the requirements for residence *and* "inability to obtain hospital care elsewhere" *may* be waived for the following circumstances or persons: (1) emergency need for hospital care; (2) communicable disease requiring isolation and quarantine; and (3) hospital trainees, city employees with service-con-

nected disabilities, graduate interns, graduate residents, and graduate nurses.

It will be noted that the admissions requirements "may" be waived for the foregoing. It is our understanding that this phrasing was adopted to (1) avoid placing an obligation on the hospital for all emergency care, (2) permit the admittance to PGH of patients with communicable diseases from the surrounding counties where for the most part facilities for treatment of such disease are lacking, and (3) conform with the traditional custom with respect to accepting certain categories of employees without making it mandatory on the part of the hospital.

The regulation also states that the requirement relating to "inability to obtain hospital care elsewhere" *shall* be waived for the following persons or circumstances: (1) a mentally-ill person who might endanger the community or himself; (2) a person with tuberculosis or any other disease specified by the Department of Public Health; and (3) if the Executive Director finds that the PGH facilities for "a particular medical need exceed those required for care of persons" who meet admission requirements.*

* We have been advised that with respect to item No. 2, no other disease has been specified by the department; and that the discretion permitted by item No. 3 has not been exercised.



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CITIZENS' BUSINESS

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December 8, 1958

No. 2,172

THE HOME RULE QUESTION

**Constitutional Revision Could Guarantee
City's Right of Self-Government**

The home rule powers of the City of Philadelphia stand high on the list of subjects of special concern to Philadelphia. Philadelphia has home rule. In fact, as the BMR-PEL recently pointed out in a discussion of Philadelphia's Home Rule Charter*, the Pennsylvania legislative grants of home rule powers to Philadelphia, coupled with earlier legislative grants of authority, give the city one of the broadest grants of home rule power enjoyed by any municipality in the United States.

Yet, there are disturbing elements about the powers granted. They are permissive powers,

* BMR-PEL, *A Discussion of Some Proposed Revisions of the Home Rule Charter: The 1951-1956 Experience* (November 1957). A limited number of copies of this report are available at \$1.50 each. Any subscriber to the BMR-PEL may obtain a copy without charge.

This is the first of a series of articles on Philadelphia's interest in revising the Pennsylvania Constitution, based on a BMR-PEL study financed by the Thomas Skelton Harrison Foundation.

granted by the Legislature, and are "subject . . . to such restrictions, limitations, and regulations, as may be imposed by the Legislature." The wording quoted is that of the Constitution (Article XV, Section 1).

Source and Nature of City's Powers

The General Assembly in 1949 displayed a broad understanding of the principles of home rule in enacting the First Class City Home Rule Act of 1949 (P.L. 665). For example, the act provided that Philadelphia, through its Home Rule Charter, shall have and may exercise all powers and authority of local self-government and shall have complete powers of legislation and administration in relation to its municipal functions (subject, however, to a few exceptions specifically reserved to the Legislature).^{*} Further, the act provided that in the exercise of its municipal functions the city shall have legislative powers with reference thereto to the full extent the General Assembly may legislate thereto and with like effect; and that provisions of the Home Rule Charter, to the extent that they are consistent with the powers granted and limitations on those powers specified, shall supersede acts of the Legislature on matters affecting the organization, government, and powers of the city.

While the Legislature of 1949 was quite broad-minded in its grant of powers, and the State Supreme Court, fortunately, has interpreted them in the broad fashion intended, the Legislature appears constantly in a position to limit or otherwise affect the home rule powers of Philadelphia. Although some distinguished attorneys have expressed the opinion that the Legislature, having

^{*} For a description of the limitations, see CITIZENS' BUSINESS No. 1,883, dated May 3, 1949.

once granted home rule powers to Philadelphia, has shed its right to alter those powers, other attorneys have expressed a contrary point of view. They point out that what the Legislature has the power to do it also has the power to undo.

A Point To Be Clarified

Clearly this is a point which needs clarification. It would seem prudent that such an important matter and principle be elevated from a potentially vulnerable position at the discretion of transitory legislative and judicial bodies. The most effective place for home rule principles would appear to be in the Constitution itself.

The problem is—as one leading authority in this field of jurisprudence has stated—one of making a legally intelligible grant of home rule power, and at the same time reserving to the General Assembly adequate authority to achieve needed flexibility and harmony in the over-all governmental arrangements of a dynamic society.*

In the opinion of the BMR-PEL, the first concern of Philadelphia in revising the Pennsylvania Constitution is to clearly establish in the Constitution Philadelphia's right to carry forward its Home Rule Charter with appropriate Home Rule powers. Instead of leaving this question at the discretion of the General Assembly (as does the present Constitutional provision) the right should be specified in the Constitution and should be self-executing—that is, it is automatically reserved to the people of Philadelphia without requiring legislation by the General Assembly. To this end the BMR-PEL would suggest as its first recommendation that the second

* Jefferson B. Fordham, *Model Constitutional Provisions for Municipal Home Rule* (American Municipal Association, 1953), p. 5.

and third sentences of Section 1 of Article XV be amended to read as follows:

Cities of over 1 million population shall have the right and power to frame and adopt their own charters. Other [cities or] cities of any particular class, may be given the right and power to frame and adopt their own charters. . . .†

This step of guaranteeing to Philadelphia its right to Home Rule is, of course, just the first step. There remains the problem of defining the Home Rule powers granted, their application and the relationships of Home Rule powers to the powers of the General Assembly. This will be the subject of a later issue of CITIZENS' BUSINESS.

† The words in italic are new material to be added; the words bracketed are material to be deleted.



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December 22, 1958

No. 2,173

PGH ADMISSION POLICY—II

Regulation Governs Rate-Making and Sets Criteria for Granting Discounts for Care

The City of Philadelphia, through the Philadelphia General Hospital, dispenses free medical services worth about \$10 million annually. The regulation under which these services are dispensed is extremely important to all concerned—taxpayers, recipients, and those who are required to pay for a part of their services. The prevailing rate regulation is summarized below.

Inpatient and Outpatient Rates

The PGH Board of Trustees is responsible for establishing both a per diem inpatient rate and a per visit outpatient (clinic) rate. The *per diem* rate is to be set “at an amount at least equal to the average operating cost per inpatient day . . . of the Hospital.” Inpatient care provided at this rate includes “bed and board, medical care, drugs, radiologic and laboratory services, and such other

This is the second of a series of articles based on the BMR-PEL's recent report on *Philadelphia General Hospital Admission Policies and Procedures*. A limited number of copies are available at \$1.00 each; however, single copies may be obtained without charge to BMR-PEL subscribers.

services as may from time to time be approved by the Board of Trustees . . . ”

The *per visit rate* is fixed at one-fifth of the per diem rate (adjusted to the nearest multiple of \$.25) and covers medical care, drugs, radiologic and laboratory services, and “such other services” as the Board may approve.

The regulation provides that the inpatient rate shall be computed on the basis of the following formula:

Total annual operating cost of the Hospital for the previous year *divided by* total number of inpatient days plus one-fifth the total number of outpatient department visits for the previous year *equals* cost per inpatient day.

(We are advised that for purposes of this formula, “total annual operating cost” excludes expenditures and income deemed as not applicable to patient care; capital expenditures and debt service are also excluded.)

In 1958, the inpatient rate was \$17.00 per diem; the outpatient rate, \$3.50 per visit.

Exceptions to Established Rates

Special rates and discounts—rather than the rate established in accordance with the formula—apply to the types of cases listed below.

Special Rate. The minimum charge for maternity inpatient care incident to delivery shall be calculated at *seven times* the established per diem rate* and shall include visits to the Prenatal and Postnatal Clinic as well as seven days of hospital care for the mother and the newborn. Those maternity patients who require hospitalization for more than seven days are to be charged the prevailing per diem inpatient rate for each day over seven.

* In practice, the minimum charge for maternity care is set at five times the per diem rate, although the patient is permitted to stay seven days without additional charge.

Free Care. The following categories of patients shall receive "a discount equal to the established rate for hospitalization" or, to put it simply, a 100% discount:

- Patients with active tuberculosis subject to quarantine or isolation controls of city's Department of Public Health.
- Patients whose hospitalization is required and specifically requested by the city's Health Commissioner in the enforcement of quarantine laws for the control of communicable disease.
- Persons in training at PGH (e.g., student nurses, interns, technicians, et al.).
- Persons on public assistance.
- City employees with compensable (service-connected) injuries or diseases.*
- Inmates of city institutions (prisons, etc.).
- Wards of the city.

● Persons who are "totally indigent"; i.e., "persons whose financial resources are inadequate to meet the basic necessities of life and who cannot pay for medical care." More specifically, the regulation states that a patient shall be deemed totally indigent whose individual or family income is less than an amount equivalent to approximately 110% of the "subsistence budgets" computed by the public assistance authorities. As presently set forth in the regulation, these annual income limits range from \$845 for a single person to \$2,547.50 for a family of six.

Partial Discount. Further provisions of the regulation allow partial discounts for care at PGH, as follows:

- Persons who are "medically indigent" (i.e., "persons who can maintain a basic minimum standard of food, shelter and clothing and can pay for medical care only to a limited extent") are allowed discounts. The regulation provides that a patient shall be deemed medically indigent if his individual or family income falls *between* the schedule for total indigence and the schedule under which full payment is required (the latter presently ranging from \$3,000 or more for a single person to \$6,000

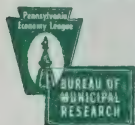
* We have been advised that the uniformed employees of the city receive free care for non-service-connected injuries or diseases also.

or more for a family of six). Medically indigent patients "shall be responsible for cost of medical care and treatment up to 5% of their annual individual or family income." For example, if a medically indigent patient's income is \$3,000 annually, he would be responsible for payment of \$150—5% of \$3,000—of his hospital bill; the remainder of the bill would be written off.

Liability for Charges

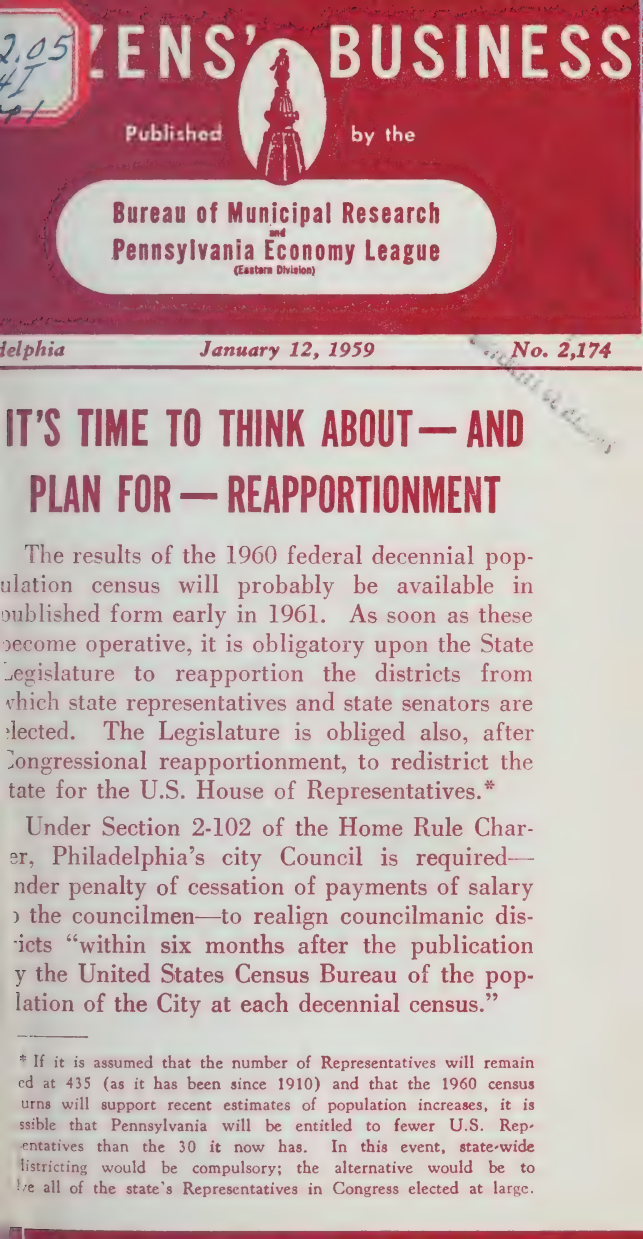
The regulation states that "a patient shall be personally liable for the charges made for medical care . . . and such liability shall extend to his legally responsible relatives in accordance with the provisions of the Support Law" (i.e., husband, wife, child, father, and mother).^{*} However, on the basis of an oral opinion of the City Solicitor, PGH considers only the two spouses in, first, determining ability-to-pay and, subsequently, seeking to recover costs. Other members of the family are considered liable only to the extent that they have actually been contributing to the support of the patient's family.

^{*} Act of June 24, 1937 (P.L. 2045), as amended.



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CENSUS' BUSINESS



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No. 2,174

IT'S TIME TO THINK ABOUT — AND PLAN FOR — REAPPORTIONMENT

The results of the 1960 federal decennial population census will probably be available in published form early in 1961. As soon as these become operative, it is obligatory upon the State Legislature to reapportion the districts from which state representatives and state senators are elected. The Legislature is obliged also, after Congressional reapportionment, to redistrict the state for the U.S. House of Representatives.*

Under Section 2-102 of the Home Rule Charter, Philadelphia's city Council is required—under penalty of cessation of payments of salary to the councilmen—to realign councilmanic districts "within six months after the publication by the United States Census Bureau of the population of the City at each decennial census."

* If it is assumed that the number of Representatives will remain ed at 435 (as it has been since 1910) and that the 1960 census urns will support recent estimates of population increases, it is ssible that Pennsylvania will be entitled to fewer U.S. Rep- entatives than the 30 it now has. In this event, state-wide istricting would be compulsory; the alternative would be to ve all of the state's Representatives in Congress elected at large.

The process of redistricting is only two years away. If it is to be carried on expeditiously—and if it is to achieve equitable representation in the municipal, state, and national law-making bodies—it is essential that planning commence now.

Wards a Key

It is traditional that all legislative districting in Philadelphia be by groups of wards and it is presumed that this will again be the pattern to be invoked in 1961. Therefore, the time is at hand to consider the machinery for redrawing of ward boundaries. Not only do the requirements of new apportionment dictate the desirability of this, but so also does the extremely inequitable ward boundary situation of today, which results in the control of the formal party machinery by groups of wards that contain only a small fraction of the city's total population.*

Home Rule Powers Involved

Today, the State Legislature retains to itself or vests in the courts (with some restrictions) the right to realign wards either by consolidating or dividing existing wards or by otherwise shifting ward boundary lines. Traditionally, ward boundaries are rarely modified except by subdivision of large wards, such as occurred in 1951 when the 35th Ward was subdivided to create six new wards.

By thus vesting in the courts the power to subdivide wards upon local petition, has not the Legislature in fact recognized that realigning ward boundaries is essentially a local and not a state function?

The time is at hand to extend Philadelphia

* This latter complexity arises from the fact that each ward, regardless of population size—is entitled to have one representative on the city committee of each political party, thus making it possible for the political leaders of the 30 least populous of the city's 59 wards to dictate the policies of their respective city committees.

home rule powers by transferring from the State Legislature to the city Council the basic power to establish ward boundaries. It is believed that a simple legislative act could achieve this transfer of responsibility.

The Time for Ward Realignment

The most favorable time for major realignment of ward boundaries would be during the period between November 8, 1960 (Election Day) and the early spring of 1961. An ordinance enacted in that interval would not affect the general election of 1960 in any way. And it is hoped that the changes effected in ward boundaries would be of a kind which would make it easy for the 1961 session of the State Legislature to enact equitable reapportionment bills for U.S. Representatives and for both houses of the State Legislature. The new ward set-up would serve also as the basis for realignment of the city's ten councilmanic districts.

In the legislation granting Philadelphia this home rule power, it would be desirable to require its initial exercise between November 8, 1960, and March 1, 1961, or within three months following the availability of census data, whichever is later. Further, such grant should set forth standards to be observed by Council in the establishment of ward boundaries in order to avoid gerrymander. Also, it would appear appropriate to require the re-exercise of this power at ten-year intervals.

Perhaps it should also be stipulated that these powers shall be exercised only upon the recommendation of an agency of a character similar to that of the Philadelphia Civil Service Panel.*

* The Civil Service Panel is composed of representatives of seven organizations "interested and concerned with good government and personnel and labor practices. . . ." Its function is to recommend to the Mayor individuals from among whom three are to be appointed as Civil Service Commissioners.

The foregoing schedule, if enacted into law, would not of course inhibit limited exercise of ward realignment powers during the intervening years of each decennium, providing that such realignment did not disturb the election districts from which legislators are sent to the State Legislature and to the Congress.

Administrative Difficulties

In suggesting that ward realignment be undertaken, one must be aware of, and accommodate to, administrative operations that would be affected by boundary changes. For example, the following city operations are carried on in such manner that at least some adjustments in record-keeping would be required:

- *Assessment and collection of real and personal property taxes for the city and the School District of Philadelphia.*
- *Providing water and sewer services and billing and collecting "rents" therefor.*
- *Administration of law providing for permanent registration of voters.*

It is believed, however, that accommodating ward realignment to these administrative as well as to the representative functions will not present insuperable obstacles.



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January 26, 1959

No. 2,175

WANTED: PEDESTRIANS

Cities Look to 'Malls' As Means
Of Preserving Downtown Values

Of late, "pedestrian appeal" has become an important ingredient of the programs which many cities in this country and abroad have developed in their efforts to preserve—and enhance—the vitality of their major business districts. To attract pedestrians (who are also shoppers, customers, clients, and patients) to "downtown" areas in greater numbers, many communities are considering innovations which would enable pedestrians to transact business in greater comfort and safety.

Streets and Sidewalks Won't Do!

Generally, plans for bettering the pedestrian's lot require *the separation of pedestrian traffic from automobile traffic*, particularly in the heavily traveled shopping sections where motorists and walkers are continually at loggerheads. The specific means suggested for accomplishing this separation of the two types of traffic are varied. One device which is being discussed currently in a number of cities—and has already

been introduced in others—is the “pedestrian mall.”

The Gruen Plan

Perhaps the most revolutionary “mall” scheme yet made public is that embodied in a plan for the redevelopment of the downtown business section of Fort Worth, Texas. Briefly, the Gruen plan* would:

- *Turn the entire center city area of Fort Worth into a pedestrian mall.*
- *Ban all surface motor vehicle traffic from the area.*

Further Facilities Required

Necessary adjuncts to the Fort Worth mall and to the continuance of business activity within the area would be the following types of facilities:

- *Expressways along the mall's perimeter to enable “through” traffic to bypass the downtown area and to provide access to parking and terminal facilities in and around the mall area.*
- *Parking and terminal facilities—or “transportation centers”—at locations convenient to the expressway ring to accommodate private automobiles, taxis, and mass transit vehicles.*
- *A system of tunnels for use by vehicles servicing office buildings, stores, hotels, theaters, etc., in the mall.*

If these—the more arresting features of the Gruen plan—were realized, Fort Worth's main business center would be freed entirely of customary vehicular traffic.† Shoppers and workers entering the mall area would alight from cars, buses, etc., at transportation centers situated only a few minutes' walk from the business center.

Further refinements proposed in the mall area

* So called after the architect Victor Gruen who is largely responsible for the proposal.

† Two types of transportation have been suggested for use in the mall area by those who cannot or will not walk: these are (1) small, slow-moving, electric-powered buses and (2) moving sidewalks.

include covered walks, extensive plantings of shrubs and trees, and outdoor dining-places.

The area which Fort Worth proposes to transform into a mall comprises some 300 acres. For Philadelphians to visualize the effect intended to be achieved, it is necessary to imagine a similar treatment here of the area lying between Arch and Spruce Streets, from 8th Street to 18th Street.

Conventional Elements Important

The success of the pedestrian mall—once it comes into being—as a restorer of Fort Worth's downtown economy will depend vastly on the prosecution of the more conventional elements of the redevelopment proposal set forth in the Gruen plan. These include the rehabilitation of a number of facilities in the area, demolition of substandard buildings, and construction of new stores, office buildings, etc.

Further, the efficacy of the entire scheme depends on increased use of mass transit facilities by those entering the downtown business area.

Long-Range and Costly

Fort Worth's "pedestrian paradise"—as it has been tagged—will not come into being overnight nor at bargain rates. It is estimated that completion of the Gruen plan will require approximately 15 years, and its cost (public and private) might range as high as \$150 million.

Findings Are Favorable

In recent years, a number of cities have tested the mall device, usually on a short-term basis in a very limited area. Generally, the merchants and other businessmen within a mall and the shoppers themselves are favorably disposed toward its retention. Those negative aspects which have been reported by some cities—such as parking difficulties, excessive traffic congestion

At June 30	Employees	Annual increase Number (%)	Cumulative change Number (%)
1952	22,828	—Base Year—	
1953	23,565	737 (3%)	737 (3%)
1954	25,101	1,536 (7%)	2,273 (10%)
1955	25,554	453 (2%)	2,726 (12%)
1956	25,904	350 (1%)	3,076 (13%)
1957	27,057	1,153 (4%)	4,229 (19%)
1958†	27,499	442 (2%)	4,671 (20%)

Where They Are Employed

Thirteen of the 63 agencies receiving appropriations in the operating budget ordinance employ 500 or more permanent, full-time employees. These agencies, which account for 23,691 (86%) of the 27,499 in service at July 31, 1958, are:

Police Dept.	5,838
Dept. of Streets	4,526
Phila. General Hospital	2,930
Fire Dept.	2,844
Water Dept.	1,365
Fairmount Park Com.	1,269
Dept. of Public Property	943
Dept. of Collections	890
Dept. of Public Health	765
Free Library	637
Prisons*	565
Municipal Court	564
Dept. of Recreation	555

Viewed by Function or Agency

As already noted, the total number of permanent, full-time employees in the city government has risen fully 20% between 1952 and 1958. However, as the following table indicates, the rate of change varies widely from agency to agency, ranging from a *decrease of 7.9%* in the Fire Department to an *increase of 81.8%* in the four agencies concerned in the licensing and inspection function:

† As of July 31, 1958.

* Includes House of Correction and Holmesburg and Moyamensing Prisons.

“Great Oaks From . . .”

Early in 1954, the city government initiated the practice of contributing toward health and welfare plans on behalf of its employees. For that year, the annual rate of contribution was \$15 for each employee covered under such plans, and the total cost to the city was \$176,235.

The size of the city's annual contribution has increased sharply since 1954, partly because of the introduction in 1956 of a municipally-financed group life insurance program for city employees. As set forth in the operating budget proposed by the Mayor, 1959 appropriations for “employee welfare plans” will total \$2.9 million, \$1.1 million of which represents the premium for group life insurance coverage for approximately 27,000 city employees. Thus, over the six-year period 1954–1959, city spending for employee welfare will have been increased 1629%.

The 1953 cost of the “personnel package” was \$97.8 million; thus, the amount proposed for 1959 represents a 46% increase in spending for this purpose in a six-year period.

Employees and Population

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1. The names and addresses of the publisher, editor, managing editor, and business managers are: Publisher, Bureau of Municipal Research and Pennsylvania Economy League (Eastern Division), Towne Building, 1321 Arch Street, Phila. 7, Pa.; Editor Emma L. Bowman, Towne Building, 1321 Arch Street, Phila. 7, Pa.; Managing Editor, none, Towne Building, 1321 Arch Street, Phila. 7, Pa.; Business Manager, none.

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EMMA L. BOWMAN, Editor

Sworn to and subscribed before me this 29th day of September, 1958.

Richard W. Damerau

[SEAL]

(My Commission expires January 7, 1959)



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MUNICI- PALS' BUSINESS

Published



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Philadelphia

November 10, 1958

No. 2,170

LET'S GET RID OF WASTEFUL TAX COLLECTION METHODS

If any advantage can be claimed for the misfortune of hard-pressed municipal budgets, the most outstanding is the fact that it serves to focus attention on the ways in which revenues are dissipated through costly and wasteful administrative methods and procedures.

The manner in which Pennsylvania municipalities collect real estate taxes is a glaring example of such waste. A comparison of the way in which county and institution district taxes are collected in Chester and Delaware Counties provides an impressive demonstration of this point. But before turning to that illustration, a brief description of the various possibilities is in order.

The Present System

Under the present system of local tax collection, almost all county, institution district, school district, third class city, borough, and township real estate taxes are required by law to be col-

Bureau of Municipal Research

1908 • Golden Anniversary • 1958

lected by locally elected officials. In a few counties (including Chester County), county and institution district taxes may be collected by the county treasurer instead of locally elected officials. The significance of this exception will be made apparent.

In third class cities and first class townships, the locally elected treasurer serves as collector of taxes; in boroughs and second class townships, a separate tax collector is elected.

In third class cities, the treasurer, serving as tax collector, *must* be paid on a salary basis; in first class townships, the treasurer, serving as tax collector, *may* be paid on a salary basis; in the remaining units—borough and second class townships—the law provides only that the tax collector is to be paid a commission of up to five per cent of all taxes collected. *The prevailing practice in most units is to pay the tax collector on a commission basis.*

Two points may be made with respect to the present law:

1. There is no valid reason or justification in today's times for *elected* real estate tax collectors.

2. Even if there were, the tax collectors should be *salaried* officers, not subject to the evils of the fee system.

Hard (And Costly) Way vs. Simple Way

Under present procedures for collection of real estate taxes, the first step is preparation of assessment rolls on which the taxes are based. The rolls are prepared by an office for this purpose at the county level (except for the 47 third class cities which may have a separate assessor and assessment list for city and school district taxes). The second step is the preparation of tax bills and mailing them to the owner of each parcel of taxable real estate.

The present procedures go at this second step

the hard way. Under prevailing practice, the tax rolls prepared at the county level are delivered to a multitude of taxing authorities who in turn pass them on to tax collectors, who then duplicate much of the work of preparing tax bills, accounting records, periodic reports to taxing authorities, and audit reports. Present procedures also require an excessive amount and duplication of personnel, equipment and supplies.

The simple way would be to prepare the bills and handle the collection at the county level with the county returning the collections to the taxing authorities. Such a system should permit:

1. Maximum utilization of efficient machine methods (which in many cases are costly for the small taxing districts, but highly economical on large volume operations).

2. A considerably reduced requirement for personal services expenditures, with the work performed by experienced, full-time, salaried personnel, at a much lower unit cost.

3. A professionally competent annual audit made at one office. The present unsatisfactory alternatives are either expensive professional audits at as many as 60 offices in a single county or ineffective lay audits.

4. A tremendous reduction in the number of audit reports now required to be made and filed at municipal, county, and state offices.

An Example of Waste

An example of the two different approaches is made clear by comparing the experience of collecting county and institution district taxes in Chester County and Delaware County.

Chester County collects these taxes through the county treasurer's office; Delaware County, through the locally elected tax collectors. In 1956, Chester County collected \$1,667,400 in real estate and personal property taxes at a total cost of \$33,956, which includes the cost of operating the county treasurer's office. *This*

amounts to a cost of \$2.03 per \$100 of taxes collected. In the same year, Delaware County collected \$4,966,600 through locally elected tax collectors at a cost of \$217,468 (including the cost of operating the county treasurer's office). This amounts to \$4.38 per \$100 of taxes collected. Payments to local tax collectors alone amounted to \$154,760 or about \$3.11 per \$100 of taxes collected.

Tax administrators prefer a measure of cost per parcel of property. Complete information on the number of assessed parcels is not readily available; however, the number of dwelling units in 1957 was about 52,000 in Chester County and about 147,000 in Delaware County.

It is apparent that the cost of collection per dwelling unit amounted to about \$.65 in Chester County compared to \$1.47 in Delaware County. Therefore, by either measure, the present cost of collection in Delaware County appears to be more than twice that in Chester County.

Yet, county and institution district tax levies represent but a small part of the total taxes levied against the same parcel of property (in southeastern Pennsylvania, less than 10% in many cases). The savings possible by having the county collect all real estate taxes through a centralized office are substantial and significant.



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CITIZENS' BUSINESS

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Philadelphia

November 24, 1958

No. 2,171

PGH ADMISSION POLICY—I

Regulation Sets Forth Requirements for Admission to City's Municipal Hospital

The Philadelphia General Hospital (PGH) is the oldest hospital in continuous service in the United States. A city-owned institution, it dates back to 1732 when the Philadelphia Almshouse was established as a combination hospital, insane asylum, and poorhouse.

In 1834, the city removed the almshouse to the present location of the PGH Blockley Division, on the west bank of the Schuylkill River. The institution continued to be operated as both almshouse and hospital until 1920, when the almshouse was transferred to the Department of Public Welfare.

Formerly Had Two Divisions

Until recently PGH had two divisions—Northern Division and the Blockley Division. The

This is the first of series of articles based on the BMR-PEL's recent report on Philadelphia General Hospital Admission Policies and Procedures.

Pennsylvania Economy League
1933 • Silver Anniversary • 1958

Northern Division is now being converted into a detention facility for juvenile delinquents.

The Blockley Division is located at 34th Street and Curie Avenue and has a capacity of 2,100 beds. Most of its beds are for non-communicable acute diseases.

Admission Policy

The present regulation governing the requirements for admission to the Philadelphia General Hospital became effective on July 29, 1954. The regulation states that the admission requirements "shall be interpreted to obtain maximum effectiveness in accomplishing the purpose for which the Philadelphia General Hospital is operated," namely:

- *Providing "hospital care for its [the City of Philadelphia's] sick."*
- *Providing "emergency hospital care for all persons who require such care."*
- *Protecting the health of Philadelphians by providing for isolation and care of contagious cases.*
- *Providing for City employees with service-connected disabilities.*
- *Training "those who would serve the sick and injured."*
- *Advancing the "knowledge of the cause and cure of disease."*
- *Participating in the prevention of disease and in the education of the public.*

The three basic requirements for admission to PGH are (1) need for hospital care, (2) "settlement" in Philadelphia, and (3) "inability to obtain hospital care elsewhere."

Need for Hospital Care. The need for hospital care is to be determined by the Executive Director of PGH, or his designee, on the basis of a medical examination of the applicant.

Settlement in Philadelphia. The applicant must be a Philadelphia resident, as defined by

PGH Report Now Available

A limited number of copies of the BMR-PEL's 65-page report on Philadelphia General Hospital Admission Policies and Procedures are available from the BMR-PEL at \$2.00 each. However, single copies may be obtained without charge by BMR-PEL contributors.

The report is divided into three parts: (1) description and analysis of admission and rate regulations; (2) social and economic data relating to sample of patients; and (3) rating and collection procedures.

Section 501 of the state Act of June 24, 1937 (P.L. 2017), as amended; i.e., a person who establishes "a permanent abode therein" and continues "to reside therein for one whole year."

However, the Executive Director is permitted by the regulation to waive the statutory requirement if evidence is presented and accepted that the applicant actually resides in Philadelphia and intends to continue to do so indefinitely.

Inability to Obtain Hospital Care Elsewhere. It must be established with the Executive Director or his designee that the applicant has not been able to obtain hospital care elsewhere on the basis of "inability to pay, peculiarity of medical need of the individual, or any other reason."

Criteria with respect to "inability to pay" are stated in a separate regulation governing charges for hospital care (to be discussed in a later CITIZENS' BUSINESS).

Exceptions to Admission Requirements

The regulation provides that the requirements for residence *and* "inability to obtain hospital care elsewhere" *may* be waived for the following circumstances or persons: (1) emergency need for hospital care; (2) communicable disease requiring isolation and quarantine; and (3) hospital trainees, city employees with service-con-

nected disabilities, graduate interns, graduate residents, and graduate nurses.

It will be noted that the admissions requirements "may" be waived for the foregoing. It is our understanding that this phrasing was adopted to (1) avoid placing an obligation on the hospital for all emergency care, (2) permit the admittance to PGH of patients with communicable diseases from the surrounding counties where for the most part facilities for treatment of such disease are lacking, and (3) conform with the traditional custom with respect to accepting certain categories of employees without making it mandatory on the part of the hospital.

The regulation also states that the requirement relating to "inability to obtain hospital care elsewhere" *shall* be waived for the following persons or circumstances: (1) a mentally-ill person who might endanger the community or himself; (2) a person with tuberculosis or any other disease specified by the Department of Public Health; and (3) if the Executive Director finds that the PGH facilities for "a particular medical need exceed those required for care of persons" who meet admission requirements.*

* We have been advised that with respect to item No. 2, no other disease has been specified by the department; and that the discretion permitted by item No. 3 has not been exercised.



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PHILADELPHIA CITIZENS' BUSINESS

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December 8, 1958

No. 2,172

THE HOME RULE QUESTION

Constitutional Revision Could Guarantee City's Right of Self-Government

The home rule powers of the City of Philadelphia stand high on the list of subjects of special concern to Philadelphia. Philadelphia has home rule. In fact, as the BMR-PEL recently pointed out in a discussion of Philadelphia's Home Rule Charter*, the Pennsylvania legislative grants of home rule powers to Philadelphia, coupled with earlier legislative grants of authority, give the city one of the broadest grants of home rule power enjoyed by any municipality in the United States.

Yet, there are disturbing elements about the powers granted. They are permissive powers,

* BMR-PEL, *A Discussion of Some Proposed Revisions of the Home Rule Charter: The 1951-1956 Experience* (November 1957). A limited number of copies of this report are available at \$1.50 each. Any subscriber to the BMR-PEL may obtain a copy without charge.

This is the first of a series of articles on Philadelphia's interest in revising the Pennsylvania Constitution, based on a BMR-PEL study financed by the Thomas Skelton Harrison Foundation.

granted by the Legislature, and are "subject . . . to such restrictions, limitations, and regulations, as may be imposed by the Legislature." The wording quoted is that of the Constitution (Article XV, Section 1).

Source and Nature of City's Powers

The General Assembly in 1949 displayed a broad understanding of the principles of home rule in enacting the First Class City Home Rule Act of 1949 (P.L. 665). For example, the act provided that Philadelphia, through its Home Rule Charter, shall have and may exercise all powers and authority of local self-government and shall have complete powers of legislation and administration in relation to its municipal functions (subject, however, to a few exceptions specifically reserved to the Legislature).^{*} Further, the act provided that in the exercise of its municipal functions the city shall have legislative powers with reference thereto to the full extent the General Assembly may legislate thereto and with like effect; and that provisions of the Home Rule Charter, to the extent that they are consistent with the powers granted and limitations on those powers specified, shall supersede acts of the Legislature on matters affecting the organization, government, and powers of the city.

While the Legislature of 1949 was quite broad minded in its grant of powers, and the State Supreme Court, fortunately, has interpreted them in the broad fashion intended, the Legislature appears constantly in a position to limit or otherwise affect the home rule powers of Philadelphia. Although some distinguished attorneys have expressed the opinion that the Legislature, having

^{*} For a description of the limitations, see CITIZENS' BUSINESS No. 1,883, dated May 3, 1949.

once granted home rule powers to Philadelphia, has shed its right to alter those powers, other attorneys have expressed a contrary point of view. They point out that what the Legislature has the power to do it also has the power to undo.

A Point To Be Clarified

Clearly this is a point which needs clarification. It would seem prudent that such an important matter and principle be elevated from a potentially vulnerable position at the discretion of transitory legislative and judicial bodies. The most effective place for home rule principles would appear to be in the Constitution itself.

The problem is—as one leading authority in this field of jurisprudence has stated—one of making a legally intelligible grant of home rule power, and at the same time reserving to the General Assembly adequate authority to achieve needed flexibility and harmony in the over-all governmental arrangements of a dynamic society.*

In the opinion of the BMR-PEL, the first concern of Philadelphia in revising the Pennsylvania Constitution is to clearly establish in the Constitution Philadelphia's right to carry forward its Home Rule Charter with appropriate Home Rule powers. Instead of leaving this question at the discretion of the General Assembly (as does the present Constitutional provision) the right should be specified in the Constitution and it should be self-executing—that is, it is automatically reserved to the people of Philadelphia without requiring legislation by the General Assembly. To this end the BMR-PEL would suggest as its first recommendation that the second

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and third sentences of Section 1 of Article XV be amended to read as follows:

Cities of over 1 million population shall have the right and power to frame and adopt their own charters. Other [cities or] cities of any particular class, may be given the right and power to frame and adopt their own charters. . . .†

This step of guaranteeing to Philadelphia its right to Home Rule is, of course, just the first step. There remains the problem of defining the Home Rule powers granted, their application, and the relationships of Home Rule powers to the powers of the General Assembly. This will be the subject of a later issue of CITIZENS' BUSINESS.

† The words in italic are new material to be added; the words bracketed are material to be deleted.



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Philadelphia

December 22, 1958

No. 2,173

PGH ADMISSION POLICY—II

Regulation Governs Rate-Making and Sets Criteria for Granting Discounts for Care

The City of Philadelphia, through the Philadelphia General Hospital, dispenses free medical services worth about \$10 million annually. The regulation under which these services are dispensed is extremely important to all concerned—taxpayers, recipients, and those who are required to pay for a part of their services. The prevailing rate regulation is summarized below.

Inpatient and Outpatient Rates

The PGH Board of Trustees is responsible for establishing both a per diem inpatient rate and a per visit outpatient (clinic) rate. The *per diem* rate is to be set “at an amount at least equal to the average operating cost per inpatient day . . . of the Hospital.” Inpatient care provided at this rate includes “bed and board, medical care, drugs, radiologic and laboratory services, and such other

This is the second of a series of articles based on the BMR-PEL's recent report on *Philadelphia General Hospital Admission Policies and Procedures*. A limited number of copies are available at \$2.00 each; however, single copies may be obtained without charge by BMR-PEL subscribers.

At June 30	Employees	Annual increase Number (%)	Cumulative change Number (%)
1952	22,828	—Base Year—	
1953	23,565	737 (3%)	737 (3%)
1954	25,101	1,536 (7%)	2,273 (10%)
1955	25,554	453 (2%)	2,726 (12%)
1956	25,904	350 (1%)	3,076 (13%)
1957	27,057	1,153 (4%)	4,229 (19%)
1958†	27,499	442 (2%)	4,671 (20%)

Where They Are Employed

Thirteen of the 63 agencies receiving appropriations in the operating budget ordinance employ 500 or more permanent, full-time employees. These agencies, which account for 23,691 (86%) of the 27,499 in service at July 31, 1958, are:

Police Dept.	5,838
Dept. of Streets	4,526
Phila. General Hospital	2,930
Fire Dept.	2,844
Water Dept.	1,365
Fairmount Park Com.	1,269
Dept. of Public Property	943
Dept. of Collections	890
Dept. of Public Health	765
Free Library	637
Prisons*	565
Municipal Court	564
Dept. of Recreation	555

Viewed by Function or Agency

As already noted, the total number of permanent, full-time employees in the city government has risen fully 20% between 1952 and 1958. However, as the following table indicates, the rate of change varies widely from agency to agency, ranging from a *decrease of 7.9%* in the Fire Department to an *increase of 81.8%* in the four agencies concerned in the licensing and inspection function:

† As of July 31, 1958.

* Includes House of Correction and Holmesburg and Moyamensing Prisons.

“Great Oaks From . . .”

Early in 1954, the city government initiated the practice of contributing toward health and welfare plans on behalf of its employees. For that year, the annual rate of contribution was \$15 for each employee covered under such plans, and the total cost to the city was \$176,235.

The size of the city's annual contribution has increased sharply since 1954, partly because of the introduction in 1956 of a municipally-financed group life insurance program for city employees. As set forth in the operating budget proposed by the Mayor, 1959 appropriations for “employee welfare plans” will total \$2.9 million, \$1.1 million of which represents the premium for group life insurance coverage for approximately 27,000 city employees. Thus, over the six-year period 1954–1959, city spending for employee welfare will have been increased 1629%.

The 1953 cost of the “personnel package” was \$97.8 million; thus, the amount proposed for 1959 represents a 46% increase in spending for this purpose in a six-year period.

Employees and Population

Viewing the trend of municipal employment in somewhat different terms discloses that the city government now has on its payroll 12.4 permanent, full-time employees for each 1,000 city residents; in 1952, it had 10.8 employees for each 1,000 residents.*

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EMMA L. BOWMAN, Editor

Sworn to and subscribed before me this 29th day of September, 1958.

Richard W. Damerau

[SEAL]

(My Commission expires January 7, 1959)



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2. Even if there were, the tax collectors should be *salaried* officers, not subject to the evils of the fee system.

Hard (And Costly) Way vs. Simple Way

Under present procedures for collection of real estate taxes, the first step is preparation of assessment rolls on which the taxes are based. The rolls are prepared by an office for this purpose at the county level (except for the 47 third class cities which may have a separate assessor and assessment list for city and school district taxes). The second step is the preparation of tax bills and mailing them to the owner of each parcel of taxable real estate.

The present procedures go at this second step

the hard way. Under prevailing practice, the tax rolls prepared at the county level are delivered to a multitude of taxing authorities who in turn pass them on to tax collectors, who then duplicate much of the work of preparing tax bills, accounting records, periodic reports to taxing authorities, and audit reports. Present procedures also require an excessive amount and duplication of personnel, equipment and supplies.

The simple way would be to prepare the bills and handle the collection at the county level with the county returning the collections to the taxing authorities. Such a system should permit:

1. Maximum utilization of efficient machine methods (which in many cases are costly for the small taxing districts, but highly economical on large volume operations).

2. A considerably reduced requirement for personal services expenditures, with the work performed by experienced, full-time, salaried personnel, at a much lower unit cost.

3. A professionally competent annual audit made at one office. The present unsatisfactory alternatives are either expensive professional audits at as many as 60 offices in a single county or ineffective lay audits.

4. A tremendous reduction in the number of audit reports now required to be made and filed at municipal, county, and state offices.

An Example of Waste

An example of the two different approaches is made clear by comparing the experience of collecting county and institution district taxes in Chester County and Delaware County.

Chester County collects these taxes through the county treasurer's office; Delaware County, through the locally elected tax collectors. In 1956, Chester County collected \$1,667,400 in real estate and personal property taxes at a total cost of \$33,956, which includes the cost of operating the county treasurer's office. *This*

amounts to a cost of \$2.03 per \$100 of taxes collected. In the same year, Delaware County collected \$4,966,600 through locally elected tax collectors at a cost of \$217,468 (including the cost of operating the county treasurer's office). *This amounts to \$4.38 per \$100 of taxes collected.* Payments to local tax collectors alone amounted to \$154,760 or about \$3.11 per \$100 of taxes collected.

Tax administrators prefer a measure of cost per parcel of property. Complete information on the number of assessed parcels is not readily available; however, the number of dwelling units in 1957 was about 52,000 in Chester County and about 147,000 in Delaware County.

It is apparent that the cost of collection per dwelling unit amounted to about \$.65 in Chester County compared to \$1.47 in Delaware County. Therefore, by either measure, the present cost of collection in Delaware County appears to be more than twice that in Chester County.

Yet, county and institution district tax levies represent but a small part of the total taxes levied against the same parcel of property (in southeastern Pennsylvania, less than 10% in many cases). The savings possible by having the county collect all real estate taxes through a centralized office are substantial and significant.



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CITIZENS' BUSINESS



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Philadelphia

November 24, 1958

No. 2,171

PGH ADMISSION POLICY—I

Regulation Sets Forth Requirements for Admission to City's Municipal Hospital

The Philadelphia General Hospital (PGH) is the oldest hospital in continuous service in the United States. A city-owned institution, it dates back to 1732 when the Philadelphia Almshouse was established as a combination hospital, insane asylum, and poorhouse.

In 1834, the city removed the almshouse to the present location of the PGH Blockley Division, on the west bank of the Schuylkill River. The institution continued to be operated as both almshouse and hospital until 1920, when the almshouse was transferred to the Department of Public Welfare.

Formerly Had Two Divisions

Until recently PGH had two divisions—Northern Division and the Blockley Division. The

This is the first of series of articles based on the BMR-PEL's recent report on Philadelphia General Hospital Admission Policies and Procedures.

Northern Division is now being converted into a detention facility for juvenile delinquents.

The Blockley Division is located at 34th Street and Curie Avenue and has a capacity of 2,100 beds. Most of its beds are for non-communicable acute diseases.

Admission Policy

The present regulation governing the requirements for admission to the Philadelphia General Hospital became effective on July 29, 1954. The regulation states that the admission requirements "shall be interpreted to obtain maximum effectiveness in accomplishing the purpose for which the Philadelphia General Hospital is operated," namely:

- *Providing "hospital care for its [the City of Philadelphia's] sick."*
- *Providing "emergency hospital care for all persons who require such care."*
- *Protecting the health of Philadelphians by providing for isolation and care of contagious cases.*
- *Providing for City employees with service-connected disabilities.*
- *Training "those who would serve the sick and injured."*
- *Advancing the "knowledge of the cause and cure of disease."*
- *Participating in the prevention of disease and in the education of the public.*

The three basic requirements for admission to PGH are (1) need for hospital care, (2) "settlement" in Philadelphia, and (3) "inability to obtain hospital care elsewhere."

Need for Hospital Care. The need for hospital care is to be determined by the Executive Director of PGH, or his designee, on the basis of a medical examination of the applicant.

Settlement in Philadelphia. The applicant must be a Philadelphia resident, as defined by

PGH Report Now Available

A limited number of copies of the BMR-PEL's 65-page report on Philadelphia General Hospital Admission Policies and Procedures are available from the BMR-PEL at \$2.00 each. However, single copies may be obtained without charge by BMR-PEL contributors.

The report is divided into three parts: (1) description and analysis of admission and rate regulations; (2) social and economic data relating to sample of patients; and (3) rating and collection procedures.

Section 501 of the state Act of June 24, 1937 (P.L. 2017), as amended; i.e., a person who establishes "a permanent abode therein" and continues "to reside therein for one whole year."

However, the Executive Director is permitted by the regulation to waive the statutory requirement if evidence is presented and accepted that the applicant actually resides in Philadelphia and intends to continue to do so indefinitely.

Inability to Obtain Hospital Care Elsewhere. It must be established with the Executive Director or his designee that the applicant has not been able to obtain hospital care elsewhere on the basis of "inability to pay, peculiarity of medical need of the individual, or any other reason."

Criteria with respect to "inability to pay" are stated in a separate regulation governing charges for hospital care (to be discussed in a later CITIZENS' BUSINESS).

Exceptions to Admission Requirements

The regulation provides that the requirements for residence *and* "inability to obtain hospital care elsewhere" *may* be waived for the following circumstances or persons: (1) emergency need for hospital care; (2) communicable disease requiring isolation and quarantine; and (3) hospital trainees, city employees with service-con-

nected disabilities, graduate interns, graduate residents, and graduate nurses.

It will be noted that the admissions requirements "may" be waived for the foregoing. It is our understanding that this phrasing was adopted to (1) avoid placing an obligation on the hospital for all emergency care, (2) permit the admittance to PGH of patients with communicable diseases from the surrounding counties where for the most part facilities for treatment of such disease are lacking, and (3) conform with the traditional custom with respect to accepting certain categories of employees without making it mandatory on the part of the hospital.

The regulation also states that the requirement relating to "inability to obtain hospital care elsewhere" *shall* be waived for the following persons or circumstances: (1) a mentally-ill person who might endanger the community or himself; (2) a person with tuberculosis or any other disease specified by the Department of Public Health; and (3) if the Executive Director finds that the PGH facilities for "a particular medical need exceed those required for care of persons" who meet admission requirements.*

* We have been advised that with respect to item No. 2, no other disease has been specified by the department; and that the discretion permitted by item No. 3 has not been exercised.



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December 8, 1958

No. 2,172

THE HOME RULE QUESTION

**Constitutional Revision Could Guarantee
City's Right of Self-Government**

FEB 6 1959
 UNIVERSITY OF ILLINOIS

The home rule powers of the City of Philadelphia stand high on the list of subjects of special concern to Philadelphia. Philadelphia has home rule. In fact, as the BMR-PEL recently pointed out in a discussion of Philadelphia's Home Rule Charter*, the Pennsylvania legislative grants of home rule powers to Philadelphia, coupled with earlier legislative grants of authority, give the city one of the broadest grants of home rule power enjoyed by any municipality in the United States.

Yet, there are disturbing elements about the powers granted. They are permissive powers,

* BMR-PEL, *A Discussion of Some Proposed Revisions of the Home Rule Charter: The 1951-1956 Experience* (November 1957). A limited number of copies of this report are available at \$1.50 each. Any subscriber to the BMR-PEL may obtain a copy without charge.

This is the first of a series of articles on Philadelphia's interest in revising the Pennsylvania Constitution, based on a BMR-PEL study financed by the Thomas Skelton Harrison Foundation.

granted by the Legislature, and are "subject . . . to such restrictions, limitations, and regulations, as may be imposed by the Legislature." The wording quoted is that of the Constitution (Article XV, Section 1).

Source and Nature of City's Powers

The General Assembly in 1949 displayed a broad understanding of the principles of home rule in enacting the First Class City Home Rule Act of 1949 (P.L. 665). For example, the act provided that Philadelphia, through its Home Rule Charter, shall have and may exercise all powers and authority of local self-government and shall have complete powers of legislation and administration in relation to its municipal functions (subject, however, to a few exceptions specifically reserved to the Legislature).^{*} Further, the act provided that in the exercise of its municipal functions the city shall have legislative powers with reference thereto to the full extent the General Assembly may legislate thereto and with like effect; and that provisions of the Home Rule Charter, to the extent that they are consistent with the powers granted and limitations on those powers specified, shall supersede acts of the Legislature on matters affecting the organization, government, and powers of the city.

While the Legislature of 1949 was quite broad-minded in its grant of powers, and the State Supreme Court, fortunately, has interpreted them in the broad fashion intended, the Legislature appears constantly in a position to limit or otherwise affect the home rule powers of Philadelphia. Although some distinguished attorneys have expressed the opinion that the Legislature, having

^{*} For a description of the limitations, see CITIZENS' BUSINESS No. 1,883, dated May 3, 1949.

once granted home rule powers to Philadelphia, has shed its right to alter those powers, other attorneys have expressed a contrary point of view. They point out that what the Legislature has the power to do it also has the power to undo.

A Point To Be Clarified

Clearly this is a point which needs clarification. It would seem prudent that such an important matter and principle be elevated from a potentially vulnerable position at the discretion of transitory legislative and judicial bodies. The most effective place for home rule principles would appear to be in the Constitution itself.

The problem is—as one leading authority in this field of jurisprudence has stated—one of making a legally intelligible grant of home rule power, and at the same time reserving to the General Assembly adequate authority to achieve needed flexibility and harmony in the over-all governmental arrangements of a dynamic society.*

In the opinion of the BMR-PEL, the first concern of Philadelphia in revising the Pennsylvania Constitution is to clearly establish in the Constitution Philadelphia's right to carry forward its Home Rule Charter with appropriate Home Rule powers. Instead of leaving this question at the discretion of the General Assembly (as does the present Constitutional provision) the right should be specified in the Constitution and it should be self-executing—that is, it is automatically reserved to the people of Philadelphia without requiring legislation by the General Assembly. To this end the BMR-PEL would suggest as its first recommendation that the second

* Jefferson B. Fordham, *Model Constitutional Provisions for Municipal Home Rule* (American Municipal Association, 1953), p. 5.

and third sentences of Section 1 of Article XV be amended to read as follows:

Cities of over 1 million population shall have the right and power to frame and adopt their own charters. Other [cities or] cities of any particular class, may be given the right and power to frame and adopt their own charters. . . .†

This step of guaranteeing to Philadelphia its right to Home Rule is, of course, just the first step. There remains the problem of defining the Home Rule powers granted, their application, and the relationships of Home Rule powers to the powers of the General Assembly. This will be the subject of a later issue of CITIZENS' BUSINESS.

† The words in italic are new material to be added; the words bracketed are material to be deleted.



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December 22, 1958

No. 2,173

PGH ADMISSION POLICY—II

Regulation Governs Rate-Making and Sets Criteria for Granting Discounts for Care

The City of Philadelphia, through the Philadelphia General Hospital, dispenses free medical services worth about \$10 million annually. The regulation under which these services are dispensed is extremely important to all concerned—taxpayers, recipients, and those who are required to pay for a part of their services. The prevailing rate regulation is summarized below.

Inpatient and Outpatient Rates

The PGH Board of Trustees is responsible for establishing both a per diem inpatient rate and a per visit outpatient (clinic) rate. The *per diem* rate is to be set “at an amount at least equal to the average operating cost per inpatient day . . . of the Hospital.” Inpatient care provided at this rate includes “bed and board, medical care, drugs, radiologic and laboratory services, and such other

This is the second of a series of articles based on the BMR-PEL's recent report on *Philadelphia General Hospital Admission Policies and Procedures*. A limited number of copies are available at \$2.00 each; however, single copies may be obtained without charge by BMR-PEL subscribers.

services as may from time to time be approved by the Board of Trustees . . . ”

The *per visit rate* is fixed at one-fifth of the per diem rate (adjusted to the nearest multiple of \$.25) and covers medical care, drugs, radiologic and laboratory services, and “such other services” as the Board may approve.

The regulation provides that the inpatient rate shall be computed on the basis of the following formula:

Total annual operating cost of the Hospital for the previous year *divided by* total number of inpatient days plus one-fifth the total number of outpatient department visits for the previous year *equals* cost per inpatient day.

(We are advised that for purposes of this formula, “total annual operating cost” excludes expenditures and income deemed as not applicable to patient care; capital expenditures and debt service are also excluded.)

In 1958, the inpatient rate was \$17.00 per diem; the outpatient rate, \$3.50 per visit.

Exceptions to Established Rates

Special rates and discounts—rather than the rate established in accordance with the formula—apply to the types of cases listed below.

Special Rate. The minimum charge for maternity inpatient care incident to delivery shall be calculated at *seven times* the established per diem rate* and shall include visits to the Prenatal and Postnatal Clinic as well as seven days of hospital care for the mother and the newborn. Those maternity patients who require hospitalization for more than seven days are to be charged the prevailing per diem inpatient rate for each day over seven.

* In practice, the minimum charge for maternity care is set at five times the per diem rate, although the patient is permitted to stay seven days without additional charge.

Free Care. The following categories of patients shall receive "a discount equal to the established rate for hospitalization" or, to put it simply, a 100% discount:

- Patients with active tuberculosis subject to quarantine or isolation controls of city's Department of Public Health.
- Patients whose hospitalization is required and specifically requested by the city's Health Commissioner in the enforcement of quarantine laws for the control of communicable disease.
- Persons in training at PGH (e.g., student nurses, interns, technicians, et al.).
- Persons on public assistance.
- City employees with compensable (service-connected) injuries or diseases.*
- Inmates of city institutions (prisons, etc.).
- Wards of the city.

● Persons who are "totally indigent"; i.e., "persons whose financial resources are inadequate to meet the basic necessities of life and who cannot pay for medical care." More specifically, the regulation states that a patient shall be deemed totally indigent whose individual or family income is less than an amount equivalent to approximately 110% of the "subsistence budgets" computed by the public assistance authorities. As presently set forth in the regulation, these annual income limits range from \$845 for a single person to \$2,547.50 for a family of six.

Partial Discount. Further provisions of the regulation allow partial discounts for care at PGH, as follows:

- Persons who are "medically indigent" (i.e., "persons who can maintain a basic minimum standard of food, shelter and clothing and can pay for medical care only to a limited extent") are allowed discounts. The regulation provides that a patient shall be deemed medically indigent if his individual or family income falls *between* the schedule for total indigence and the schedule under which full payment is required (the latter presently ranging from \$3,000 or more for a single person to \$6,000

* We have been advised that the uniformed employees of the city receive free care for non-service-connected injuries or diseases also.

or more for a family of six). Medically indigent patients "shall be responsible for cost of medical care and treatment up to 5% of their annual individual or family income." For example, if a medically indigent patient's income is \$3,000 annually, he would be responsible for payment of \$150—5% of \$3,000—of his hospital bill; the remainder of the bill would be written off.

Liability for Charges

The regulation states that "a patient shall be personally liable for the charges made for medical care . . . and such liability shall extend to his legally responsible relatives in accordance with the provisions of the Support Law" (i.e., husband, wife, child, father, and mother).^{*} However, on the basis of an oral opinion of the City Solicitor, PGH considers only the two spouses in, first, determining ability-to-pay and, subsequently, seeking to recover costs. Other members of the family are considered liable only to the extent that they have actually been contributing to the support of the patient's family.

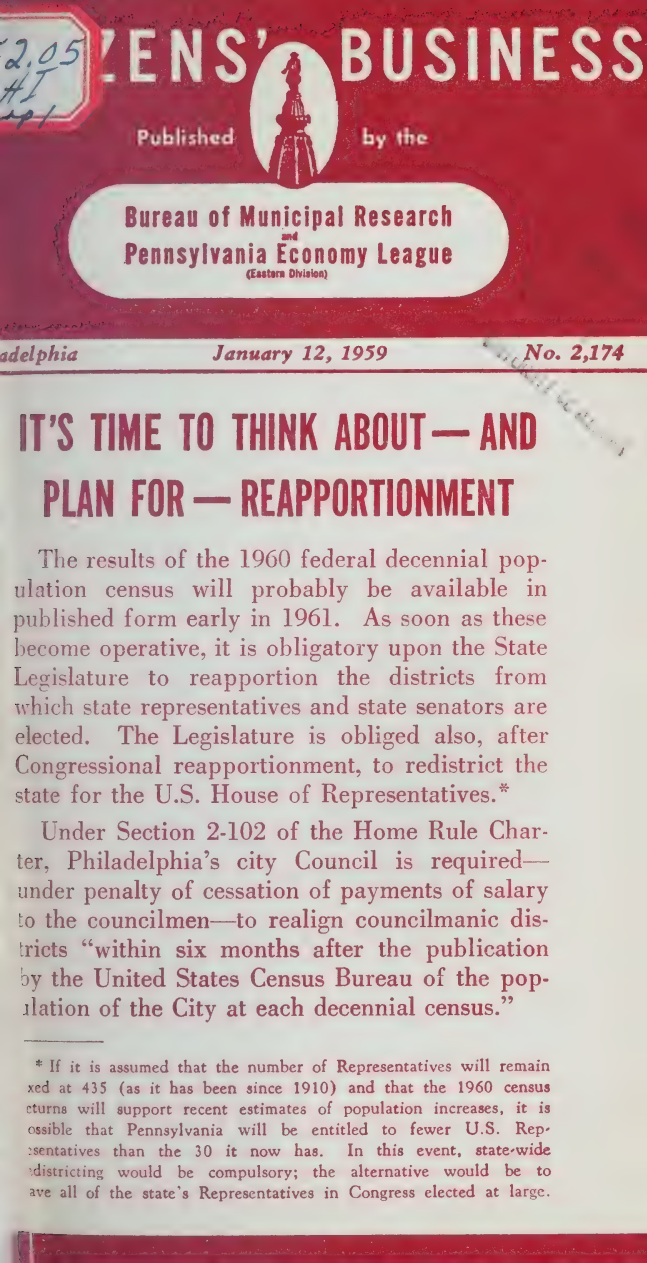
^{*} Act of June 24, 1937 (P.L. 2045), as amended.



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CENSUS' BUSINESS

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IT'S TIME TO THINK ABOUT — AND PLAN FOR — REAPPORTIONMENT

The results of the 1960 federal decennial population census will probably be available in published form early in 1961. As soon as these become operative, it is obligatory upon the State Legislature to reapportion the districts from which state representatives and state senators are elected. The Legislature is obliged also, after Congressional reapportionment, to redistrict the state for the U.S. House of Representatives.*

Under Section 2-102 of the Home Rule Charter, Philadelphia's city Council is required—under penalty of cessation of payments of salary to the councilmen—to realign councilmanic districts “within six months after the publication by the United States Census Bureau of the population of the City at each decennial census.”

* If it is assumed that the number of Representatives will remain fixed at 435 (as it has been since 1910) and that the 1960 census returns will support recent estimates of population increases, it is possible that Pennsylvania will be entitled to fewer U.S. Representatives than the 30 it now has. In this event, state-wide redistricting would be compulsory; the alternative would be to have all of the state's Representatives in Congress elected at large.

The process of redistricting is only two years away. If it is to be carried on expeditiously—and if it is to achieve equitable representation in the municipal, state, and national law-making bodies—it is essential that planning commence now.

Wards a Key

It is traditional that all legislative districting in Philadelphia be by groups of wards and it is presumed that this will again be the pattern to be invoked in 1961. Therefore, the time is at hand to consider the machinery for redrawing of ward boundaries. Not only do the requirements of new apportionment dictate the desirability of this, but so also does the extremely inequitable ward boundary situation of today, which results in the control of the formal party machinery by groups of wards that contain only a small fraction of the city's total population.*

Home Rule Powers Involved

Today, the State Legislature retains to itself or vests in the courts (with some restrictions) the right to realign wards either by consolidating or dividing existing wards or by otherwise shifting ward boundary lines. Traditionally, ward boundaries are rarely modified except by subdivision of large wards, such as occurred in 1951 when the 35th Ward was subdivided to create six new wards.

By thus vesting in the courts the power to subdivide wards upon local petition, has not the Legislature in fact recognized that realigning ward boundaries is essentially a local and not a state function?

The time is at hand to extend Philadelphia

* This latter complexity arises from the fact that each ward, regardless of population size—is entitled to have one representative on the city committee of each political party, thus making it possible for the political leaders of the 30 least populous of the city's 59 wards to dictate the policies of their respective city committees.

home rule powers by transferring from the State Legislature to the city Council the basic power to establish ward boundaries. It is believed that a simple legislative act could achieve this transfer of responsibility.

The Time for Ward Realignment

The most favorable time for major realignment of ward boundaries would be during the period between November 8, 1960 (Election Day) and the early spring of 1961. An ordinance enacted in that interval would not affect the general election of 1960 in any way. And it is hoped that the changes effected in ward boundaries would be of a kind which would make it easy for the 1961 session of the State Legislature to enact equitable reapportionment bills for U.S. Representatives and for both houses of the State Legislature. The new ward set-up would serve also as the basis for realignment of the city's ten councilmanic districts.

In the legislation granting Philadelphia this home rule power, it would be desirable to require its initial exercise between November 8, 1960, and March 1, 1961, or within three months following the availability of census data, whichever is later. Further, such grant should set forth standards to be observed by Council in the establishment of ward boundaries in order to avoid gerrymander. Also, it would appear appropriate to require the re-exercise of this power at ten-year intervals.

Perhaps it should also be stipulated that these powers shall be exercised only upon the recommendation of an agency of a character similar to that of the Philadelphia Civil Service Panel.*

* The Civil Service Panel is composed of representatives of seven organizations "interested and concerned with good government and personnel and labor practices. . . ." Its function is to recommend to the Mayor individuals from among whom three are to be appointed as Civil Service Commissioners.

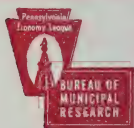
The foregoing schedule, if enacted into law, would not of course inhibit limited exercise of ward realignment powers during the intervening years of each decennium, providing that such realignment did not disturb the election districts from which legislators are sent to the State Legislature and to the Congress.

Administrative Difficulties

In suggesting that ward realignment be undertaken, one must be aware of, and accommodate to, administrative operations that would be affected by boundary changes. For example, the following city operations are carried on in such manner that at least some adjustments in record-keeping would be required:

- *Assessment and collection of real and personal property taxes for the city and the School District of Philadelphia.*
- *Providing water and sewer services and billing and collecting "rents" therefor.*
- *Administration of law providing for permanent registration of voters.*

It is believed, however, that accommodating ward realignment to these administrative as well as to the representative functions will not present insuperable obstacles.



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January 26, 1959

No. 2,175

WANTED: PEDESTRIANS

Cities Look to 'Malls' As Means
Of Preserving Downtown Values

Of late, "pedestrian appeal" has become an important ingredient of the programs which many cities in this country and abroad have developed in their efforts to preserve—and enhance—the vitality of their major business districts. To attract pedestrians (who are also shoppers, customers, clients, and patients) to "downtown" areas in greater numbers, many communities are considering innovations which would enable pedestrians to transact business in greater comfort and safety.

Streets and Sidewalks Won't Do!

Generally, plans for bettering the pedestrian's lot require *the separation of pedestrian traffic from automobile traffic*, particularly in the heavily traveled shopping sections where motorists and walkers are continually at loggerheads. The specific means suggested for accomplishing this separation of the two types of traffic are varied. One device which is being discussed currently in a number of cities—and has already

been introduced in others—is the “pedestrian mall.”

The Gruen Plan

Perhaps the most revolutionary “mall” scheme yet made public is that embodied in a plan for the redevelopment of the downtown business section of Fort Worth, Texas. Briefly, the Gruen plan* would:

- *Turn the entire center city area of Fort Worth into a pedestrian mall.*
- *Ban all surface motor vehicle traffic from the area.*

Further Facilities Required

Necessary adjuncts to the Fort Worth mall and to the continuance of business activity within the area would be the following types of facilities:

- *Expressways along the mall's perimeter to enable “through” traffic to bypass the downtown area and to provide access to parking and terminal facilities in and around the mall area.*
- *Parking and terminal facilities—or “transportation centers”—at locations convenient to the expressway ring to accommodate private automobiles, taxis, and mass transit vehicles.*
- *A system of tunnels for use by vehicles servicing office buildings, stores, hotels, theaters, etc., in the mall.*

If these—the more arresting features of the Gruen plan—were realized, Fort Worth's main business center would be freed entirely of customary vehicular traffic.† Shoppers and workers entering the mall area would alight from cars, buses, etc., at transportation centers situated only a few minutes' walk from the business center.

Further refinements proposed in the mall are

* So called after the architect Victor Gruen who is largely responsible for the proposal.

† Two types of transportation have been suggested for use in the mall area by those who cannot or will not walk: these are (1) small, slow-moving, electric-powered buses and (2) moving sidewalks.

include covered walks, extensive plantings of shrubs and trees, and outdoor dining-places.

The area which Fort Worth proposes to transform into a mall comprises some 300 acres. For Philadelphians to visualize the effect intended to be achieved, it is necessary to imagine a similar treatment here of the area lying between Arch and Spruce Streets, from 8th Street to 18th Street.

Conventional Elements Important

The success of the pedestrian mall—once it comes into being—as a restorer of Fort Worth's downtown economy will depend vastly on the prosecution of the more conventional elements of the redevelopment proposal set forth in the Gruen plan. These include the rehabilitation of a number of facilities in the area, demolition of substandard buildings, and construction of new stores, office buildings, etc.

Further, the efficacy of the entire scheme depends on increased use of mass transit facilities by those entering the downtown business area.

Long-Range and Costly

Fort Worth's "pedestrian paradise"—as it has been tagged—will not come into being overnight nor at bargain rates. It is estimated that completion of the Gruen plan will require approximately 15 years, and its cost (public and private) might range as high as \$150 million.

Findings Are Favorable

In recent years, a number of cities have tested the mall device, usually on a short-term basis in a very limited area. Generally, the merchants and other businessmen within a mall and the shoppers themselves are favorably disposed toward its retention. Those negative aspects which have been reported by some cities—such as parking difficulties, excessive traffic congestion

Congratulations in Order

*Two local political scientists were recently designated winners of a national award for their "valuable contributions in 1958 to the solution of problems of urban and metropolitan areas." Dr. Stephen B. Sweeney and Dr. George S. Blair, both of the Fels Institute of Local and State Government of the University of Pennsylvania, were honored for their work in editing the collection of papers entitled **Metropolitan Analysis: Important Elements of Study and Action.***

The awards — initiated last year — are sponsored by the Fruin-Colnon Contracting Company and are administered by the National Municipal League, a citizen organization devoted since 1894 to the improvement of government.

and slackened trade in the area immediately surrounding the mall—would apparently present no problem to Fort Worth. The Gruen plan, as drafted, is so comprehensive that the types of difficulties already experienced elsewhere would be unlikely to arise.



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February 9, 1959

No. 2,176

WHAT THE CITY ASKS

Philadelphia Promotes Its Legislative Packages in Harrisburg and Washington

As one of its final actions in 1958, the Council of the City of Philadelphia authorized its President to appoint a Special Legislative Committee "to help direct and work in the interests of the City's legislative programs at the 1959 sessions of the Pennsylvania State Legislature, in Harrisburg, and the United States Congress, in Washington." By way of explaining its action, Council stated that the "tax ratables and resources of our City are not sufficient to meet the requirements for the continued progress of Philadelphia and the expanding needs of its people. We must have increased financial support and implementing legislation in many areas, from both the State Legislature and the United States Congress . . ."

A Time of Special Pleadings

The members of this new councilmanic committee* have since been appointed, thus aug-

* The Special Committee was authorized by Resolution No. 311, adopted December 4, 1958; on December 11, 1958, six members of Council were designated to be members.

menting the Philadelphia corps of special pleaders at the legislative "fronts." In the state capital, it is not extraordinary to find—in addition to the 39 Representatives and the 8 Senators whom Philadelphians elect to the General Assembly—members of the city Administration along with other civic leaders arguing the pros and cons of measures which concern the city. Similarly, in Washington, the city's interests are promoted not only by its elected congressional delegation (which includes 6 Representatives from Philadelphia) and an appointed Legislative Representative, but also by occasional deputations of city and state officials and private citizens. Also useful in alerting legislators to the nature and complexity of urban problems—those of other cities as well as Philadelphia's—are the activities of such organizations as the American Municipal Association, the U.S. Conference of Mayors, and the Pennsylvania League of Cities.

Explaining the Need

The nature of the legislative programs which the city hopes to see enacted by the General Assembly and the Congress during the current sessions, notwithstanding the fiscal crises facing both law-making bodies, lends credence to Council's statement and explains why persuasive voices for Philadelphia are required in both capitals. The city Administration's objectives are to be achieved.

What Is Asked of the General Assembly

Examination of the 51-point program suggested by the Mayor for the attention of the State Legislature shows that the over-all effect of about one half of the suggested measures would be to increase the level of state spending during the

1959-1961 biennium.* Typical of the spending proposals are those which would have the Legislature authorize: (1) enlarging funds for urban renewal and industrial development purposes, (2) shifting to the state responsibilities presently borne by the city (such as the cost of care of the criminally insane in State institutions), and (3) increasing direct appropriations to the city, particularly for public health needs.

Still other proposals in the program—though they might have no immediate fiscal effect—would be apt to prove costly to the state later on.

The remainder of the program suggested to the State Legislature includes proposals such as the following, which would be of significant help to the city although they would not entail any state appropriations:

- *Permit the state to withhold the city wage tax from the salaries of state employees working or living in Philadelphia.*

- *Amend the state's Motor Vehicle Code so that the city could write "pedestrian controls" into its Traffic Code.*

- *Authorize the Council of Philadelphia to complete city-county consolidation.*

What Is Asked of the Congress

The 14-point legislative program which the city Administration would urge on the Congress involves several national programs in which Philadelphia would share. These include:

- *\$600 million annually for 10 years for urban renewal and housing.*

- *\$100 million for airports.*

- *\$150 million annually for 10 years for hospitals.*

- *Federal guarantees of lease agreements on new equipment for railroad commuter lines.*

* Appropriations totaling \$33.3 million are suggested to provide for 11 items in the program; no specific amounts are indicated for the remaining 40 items.

• *Expansion of OASI to provide medical care for men over 65 and women over 62.*

Other items in the suggested program are Philadelphia-oriented and, if enacted, would help relieve the city's financial pangs, directly or indirectly, as follows:

• *Permit the federal installations in Philadelphia to withhold the city wage tax from federal employees, thus increasing city revenues an estimated \$1 million annually.*

• *Authorize sale of three army piers to city at nominal amount.*

• *Appropriate \$1.5 million for Independence Mall and \$20 million for work on 40-ft. channel.*

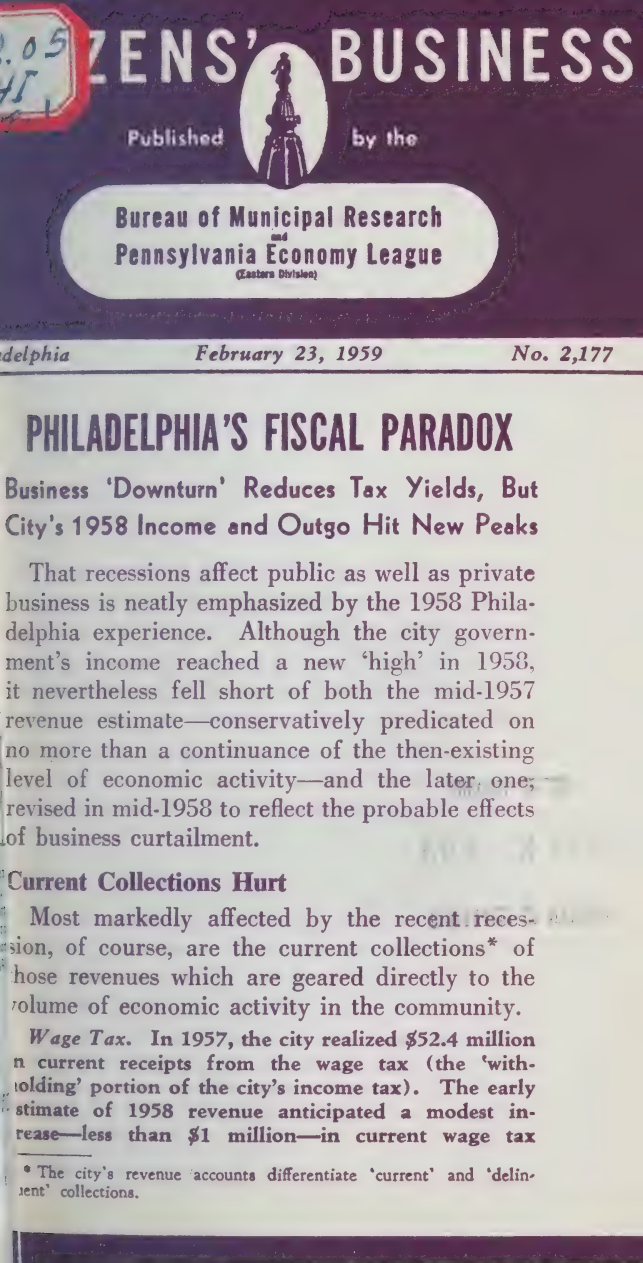
To Achieve Equity

The two legislative packages which the city Administration hopes to see enacted—and in aid of which it has enrolled the services of the Special Committee and other civic leaders—indeed contain measures which would provide “increased financial support,” much of it for programs which are generally deemed to be not only worthwhile but essential. Certainly, Philadelphia should share in the benefits to be derived from the various state and national aid programs; else local taxpayers and the economy of the region would suffer an obvious disadvantage.



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PHILADELPHIA'S FISCAL PARADOX

**Business 'Downturn' Reduces Tax Yields, But
City's 1958 Income and Outgo Hit New Peaks**

That recessions affect public as well as private business is neatly emphasized by the 1958 Philadelphia experience. Although the city government's income reached a new 'high' in 1958, it nevertheless fell short of both the mid-1957 revenue estimate—conservatively predicated on no more than a continuance of the then-existing level of economic activity—and the later, one, revised in mid-1958 to reflect the probable effects of business curtailment.

Current Collections Hurt

Most markedly affected by the recent recession, of course, are the current collections* of those revenues which are geared directly to the volume of economic activity in the community.

Wage Tax. In 1957, the city realized \$52.4 million in current receipts from the wage tax (the 'withholding' portion of the city's income tax). The early estimate of 1958 revenue anticipated a modest increase—less than \$1 million—in current wage tax

* The city's revenue accounts differentiate 'current' and 'delinquent' collections.

collections, due almost wholly to the fact that 1958 was the first year in which all returns made to the city were at the $1\frac{1}{2}\%$ rate. Later, the estimate was reduced. However, when the city's books were closed for 1958, the current wage tax had produced only \$52.1 million, \$1.2 million less than initially estimated for 1958 and \$0.3 million less than actually received in 1957. (It is appropriate to emphasize that the decrease recorded in 1958 would be about \$1.0 million if 1957 receipts were adjusted upward to reflect the $1\frac{1}{2}\%$ rate for that entire year.)

Net Profits Tax. Net profits tax collections* (excluding delinquent payments) show a similar pattern for 1958, revenues from this source dropping below estimates and, as well, below the level of 1957 collections.

Mercantile License Tax: Returns from the mercantile license tax followed the downward trend also, the current portion yielding only \$15.1 million in 1958, compared with \$15.3 million in 1957.

Other Barometers. Two other revenues which slowed down in 1958 had already declined in the preceding year. These are the real property transfer tax, which dropped from \$3.0 million in 1957 to \$2.8 million in 1958, and parking meter receipts which fell from \$0.9 million in 1957 to \$0.8 million in 1958.†

Earnings Tax. The only other major revenue item of the general fund which is highly sensitive to fluctuation in the economy is the earnings tax (that portion of the city's income tax which is derived from wages *not* subject to withholding‡). Current yield from the earnings tax rose from \$3.1 million in 1957 to \$3.7 million in 1958. Even more striking, the delinquent collections of the tax went from \$2.3 million in 1957 to \$4.9 million in 1958. However, the increase in earnings tax collections—current and delinquent—was due principally, if not entirely, to aggressive collection efforts, not to an uptick in earnings of persons subject to the tax.

* That part of the city's income tax which is derived from net profits of unincorporated business.

† At least a part of the decline in parking meter receipts may be attributed to thefts from coin boxes.

‡ In this category are wages of Philadelphia residents employed outside the city and non-residents employed by state and federal installations located in the city.

Belaboring the Obvious

That "old reliable," the real property tax, demonstrated a truism of public finance; namely, that in periods of recession or depression, the yield from this source is not subject to the rapid decline which marks the less stable revenue sources. In 1958, current revenues from the real estate tax exceeded by \$0.9 million the \$75.6 million produced from this source in 1957. Collections of delinquent taxes on real property increased also in 1958. Somewhat less encouraging is the fact that actual 1958 real estate tax revenues—although greater than those of 1957—did nevertheless fall slightly short of 1958 estimates.

One of the brighter aspects of the municipal revenue picture is the continuing increase in airport revenues. In 1958, airport receipts totaled roundly \$2.0 million, compared with approximately \$1.8 million in 1957. Even so, the excess of airport revenues over expenditures (for out-of-pocket operating costs) was far from sufficient to pay the annual debt service charges on airport loans. Moreover, it must be recognized that certain of the facilities which help generate airport revenues were financed out of federal subsidies; if city funds in like amount had been used for construction of such improvements, the municipal debt for airport purposes would now stand at a much higher figure and annual charges for debt service would doubtless be greater.

The Three Main Funds

General fund revenues from all sources totaled \$203.1 million in 1958,* thus running \$2.2 million above the 1957 figure. Despite the increase in general fund revenues, 1958 outgo exceeded

* Interfund transfers have been excluded from the revenue and expenditure totals of the three main funds.

1958 income by \$8.5 million. The gap between income and outgo was filled by dipping into general fund surplus accumulated in earlier years. (At December 31, 1958, the net cumulative cash surplus in the general fund amounted to \$6.5 million.)

Municipal water revenues rose from \$13.2 million in 1957 to \$16.0 million in 1958, a rise which is due almost exclusively to the rate increase that became effective on January 1, 1958. In like manner, sewer fund revenues increased in 1958 and, principally, for the same reason. Thus, sewer fund income went to \$13.5 million in 1958, a 41% increase over the \$9.6 million received in 1957. One factor in "sweetening" the 1958 revenue picture for the sewer fund was a state grant of \$641,000; no such grant was received in 1957.

The 1958 experience of the water and sewer funds differs from that of the general fund in that combined water and sewer income for 1958 exceeded outgo by roundly \$3.0 million. Thus, both funds closed the year in improved financial condition. At December 31, 1958, the net cumulative cash surplus in the water fund amounted to \$2.6 million; in the sewer fund, \$1.2 million.



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MORE ON HOME RULE

Constitution Should Define Philadelphia's Home Rule Powers and Limitations Thereon

The previous issue of CITIZENS' BUSINESS in the current series on constitutional revision* suggested that the Constitution should contain a provision *guaranteeing* to Philadelphia its right and power to operate its government under its own Home Rule Charter.

If home rule is to be meaningful, it is also necessary to define the powers and limitations on home rule. Under the Constitution at present, both the power of adopting a Home Rule Charter and the governmental powers which may be exercised under that charter are discretionary matters controlled by the General Assembly.

Home Rule Under Legislative Grant

The home rule powers presently enjoyed by the City of Philadelphia represent an enlightened approach by the General Assembly to the broad

* CITIZENS' BUSINESS No. 2,172, December 8, 1958.

This is the second article on Philadelphia's interest in revising the Pennsylvania Constitution; the series is based on a BMR-PEL study financed by the Thomas Skelton Harrison Foundation.

principles of home rule. The First Class City Home Rule Act of 1949 (P.L. 665) states that Philadelphia shall have, through its Home Rule Charter, complete powers of legislation and administration in relation to its municipal functions, subject to a few exceptions specifically reserved to the Legislature. Further, the act provides that in the exercise of its municipal functions, the city shall have legislative powers with reference thereto to the full extent the General Assembly may legislate thereto and with like effect; and that provisions of the Home Rule Charter, to the extent that they are consistent with the powers granted and limitations on those powers specified, shall supersede acts of the Legislature on matters affecting the organization, government, and powers of the city.

A Departure from Tradition

This grant of power is a departure from the traditional concept of the power of local government. Under the traditional concept, local governments were presumed to have only such powers as were specifically stated by the State Legislature. Unless specific authority for exercising a power of local government could be traced to a specific act of the Legislature, the power was presumed to be denied. The newer concept reverses this procedure: unless it can be shown that the Legislature (or, of course, the United States and state Constitutions) has specifically denied the power, the municipality with home rule powers is presumed to have any and all powers which it exercises.

Nearly a Decade of Trial

This *legislative* grant of home rule powers to cities of the first class in 1949 (extended to cities of the third class in substantial measure in 1957

was in some ways an experiment in Pennsylvania local government. Its successful operation in Philadelphia for nearly ten years has proved that it is workable and a sensible approach to local government administration in the twentieth century. In the opinion of the BMR-PEL, therefore, it is appropriate to include the definition of home rule powers in the Constitution. This will serve to provide certainty to the existence of inherent (though properly restricted) home rule powers in local government, instead of the uncertainty of the present provision which makes the entire question of home rule subject to "restrictions, limitations, and regulations . . . imposed by the Legislature."

BMR-PEL Suggests Changes

To implement this suggestion, the BMR-PEL recommends that Section 1 of Article XV be amended to delete the words "*and to exercise the powers and authority of local self-government subject, however, to such restrictions, limitations, and regulations as may be imposed by the Legislature,*" and add the following provisions defining the general grant of home rule powers and those special powers reserved to the people of a home rule city under their Home Rule Charter:*

Home Rule Powers: The charter of any city adopted or amended in accordance with this provision may provide for a form or system of municipal government and for the exercise of any and all powers relating to its municipal functions, not inconsistent with the Constitution of the United States, the Constitution of this Commonwealth, or of laws of this Commonwealth which are general in effect.

Home Rule Charter Powers: Charter provisions with respect to municipal executive, legislative and ad-

* The wording of the recommended provisions is substantially that contained in the Home Rule Act of 1949 and the *Model Constitutional Provisions for Municipal Home Rule* of the American Municipal Association (1953), with some modification.

ministrative structure, organization, personnel, and procedures shall be of superior authority to statute, subject to the requirement that the members of a municipal legislative body be chosen by popular election, and except as to judicial review of administrative proceedings, which shall be subject to the superior authority of statute.

The superior authority of the General Assembly over matters of other than strictly local concern is reflected in the provision that the General Assembly may restrict the home rule powers (in all but those powers of strictly local concern reserved to the local community under its Home Rule Charter) through laws "which are general in effect." Definition of such laws involves the Pennsylvania system of classifying communities, a device through which, as far as Philadelphia is concerned, the home rule powers can be nullified.* The subject of classification will be discussed in a future issue of CITIZENS' BUSINESS in this series on constitutional revision.

* This is because laws are considered as "general in nature" if they apply to a class of municipalities. As Philadelphia constitutes the only city in the "First Class," all laws applicable to First Class Cities are presently "general in nature" even though they are, in fact, if not in law, special laws.



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CITY BUSINES'S BUSINESS

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WHAT ARE ECONOMIC AND SOCIAL EFFECTS OF BUSINESS MERGERS?

The Philadelphia area, in which numerous business mergers have occurred during the past decade, will find much that is interesting—and, possibly, pertinent—in a brief report recently published by the Rochester Chamber of Commerce. Based on a study undertaken in 1958 by a 14-member committee, the report provides answers to the question: "How is a community affected by business mergers which shift control of local plants to absentee owners?"

Background of Study

Rochester, the 3d largest city of the Empire State, shared in the nation-wide trend toward corporate consolidation that marked the post-war years. Many firms native to the city were absorbed by larger, out-of-town business concerns; for example, the Wollensak Optical Company became a division of the Revere Camera Company. On the other hand, several Rochester companies acquired out-of-town subsidiaries. About a year ago, community concern over the prevalence of mergers, particularly those in-

volving a shift from local to out-of-town ownership, led to the creation, by the Rochester Chamber of Commerce, of a 14-member study committee.* The committee's assignment was to determine the causes of mergers and, more important, to assess the effects—both economic and social—of changes in ownership on the community.

The area of study was limited to 12 mergers which had taken place between 1950 and 1957, all involving the acquisition of Rochester firms by outside companies.

Economic and Social Impact

Briefly, the following paragraphs sum up the committee's findings as to the economic effects which these 12 mergers have had on the firms immediately involved and on the Rochester community:

- *All 12 of the local plants under study continued in operation after ownership passed from local to out-of-town control. (This fact did much to dispel the notion that "merger" is a synonym for "shutdown.")*
- *Employment in the 12 plants showed a net increase of approximately 13%. Seven of the firms decreased their work forces after the mergers, but all or part of the decline in employment may be attributable to the recession; the other five firms increased employment so substantially as to result in a net gain of approximately 2,000 jobs.*
- *Nearly all of the plants added new products to their manufacturing schedules, and many of them benefited from participation in the broader research and advertising programs conducted by the parent companies.*
- *A majority of the 12 plants increased consumption of electric power in the post-merger period.*
- *Several of the merged plants were found to be making less use of the services of Rochester banks, law*

* Formally, the Committee on the Out-of-Town Acquisition of Rochester Companies.

firms, and insurance agencies than had been the custom during the period when they were locally owned.

Two further aspects of the economy—water use and real property assessments—showed no significant trends resulting from the mergers; the study committee found that such slight changes as had occurred were related to the general movement of the economy rather than to the changes in the management of the 12 firms.

In discussing its findings as to the social consequences of the 12 mergers included in the study, the committee cautions against confusing the recent recession's impact with that of the merger movement:

• In general, the merged companies have not been as ready as other firms to increase their corporate gifts to the Community Chest, and, in some instances, their subscriptions dropped sharply when the recession began. (Employees of the merged companies gave more generously than before, thus offsetting the decrease in corporate gifts.)

• On the whole, the new managements of the merged companies have shown themselves willing to participate in community enterprises and have encouraged their junior executives to serve on boards and committees of various kinds.

The outside managers of merged companies are somewhat less responsive to appeals from local institutions for new members and for funds than are the executives of locally-owned firms.

The Nature of the Challenge

Balancing the distinctly beneficial effects of the mergers against some adverse ones, the study committee concluded that increased economic stability, greater job security, and the influx of fresh managerial and other talent seems thus far to be offsetting the danger of absentee control. The worst danger which might arise from

business mergers is, as the committee sees it, 'decision-making by out-of-town owners which fails to give proper emphasis to community interests. However, in the committee's view, even this pitfall can be avoided "by a more vigorous reassertion of local initiative."

Specifically, the committee suggests welcoming newly-arrived executives to participate fully in civic and community life and, further, recommends the creation of an official city agency "with continuing responsibility for establishing liaison with the management of out-of-town owners of Rochester companies." Granting the establishment of such rapport with the absentee owners, the agency's continuing functions would be to appraise developments in the Rochester area and, on the basis of its evaluation to indicate the real interests of the community and its continuing desire to have the out-of-town owners participate in Rochester's civic enterprises.



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No. 2,180

FROM 'STATIC' TO 'ECSTATIC'?

Downtown Syracuse Lost the Metropolitan Pace; New Program Would Overcome Lag

Infusing life into moribund downtown business areas has become a major preoccupation of city officials and other civic leaders in communities all across the nation. The recently-released report, *Planning Syracuse, 1958*, describes the problems encountered in that city's central business district and the program suggested to strengthen the economy of the central area.*

Trends in the Central District

A comparison of "growth indicators" in the Syracuse downtown area with those in the remainder of the city and those in the county outside the city revealed the economy of the downtown area to be "static." Among the economic facts of life cited in support of this contention are the following:

In the ten years 1948 to 1957, the dollar volume of retail sales in the central district increased only .3%; in the same period, sales rose 57.7% in the

* The report is based on a study made by the Syracuse Department of City Planning.

rest of the city, and 102.3% in the county outside the city.

- The central district handled 35.2% of all retail business transacted in Onondaga County in 1948; by 1957, its share had dropped to 26.4%.

- The dollar volume of hotel receipts increased 13.0% in the central district between 1948 and 1954; in the suburbs, receipts increased 78.8% (due to construction of motels).

- Theater attendance dropped sharply in the downtown area, as evidenced by a 27% decrease in box-office receipts between 1948 and 1954; a 58.5% increase in theater receipts was noted in the suburbs during the same period.

- The assessed value of real property in the central district rose from \$80.3 million in 1946 to \$101.5 million in 1958, an increase of \$21.2 million (or 26.4%). However, more than half of the increase is attributable to new tax exempt properties (War Memorial, parking garages, etc.). Further, the rise in taxable values in the downtown area is largely a result of increased assessments on existing structures.

- The average number of people entering the downtown area daily between 7 A.M. and 7 P.M. dropped from 112,167 in 1946 to 92,797 in 1957, a 17.3% decline.

- Mass transit use declined 50.6%, the average number of people entering the downtown area by bus having dropped from 41,462 in 1946 to 20,475 in 1957. In the same period, the number of people entering by car increased about 2%.*

- About 16,000 more motor vehicles entered the central district daily in 1957 than in 1951, creating "something of a traffic problem."† In the same period, peak hour use of downtown off-street parking facilities declined, apparently because of high rates and/or poor location.

The Proposed Solution

After noting that Syracuse "might well profit from the plans of such cities as New Haven

* Over-all use of mass transit has declined sharply, as indicated by the Syracuse Transit Company's report that total annual patronage of its facilities had declined 58.3% in 12 years, the number of passenger fares having dropped from roundly 48 million in 1947 to 20 million in 1958.

† Includes vehicles passing through as well as those with destinations in the central area.

Philadelphia, Fort Worth, Baltimore and Kansas City, all of which have major downtown redevelopment programs underway," the report outlines a six-year improvement program designed to stimulate the city's central area to "share in the growth of the surrounding region." The major features of the proposed program are:

- *Arterial loop system.* Easy access to and around the central district will be provided by a system of expressways encircling the area (approximately 350 acres).

- *Traffic pattern.* To make vehicular traffic flow more smoothly—and with as little pedestrian conflict as possible—the traffic circulation pattern will be revised. Some two-way streets will become one-way, the direction of traffic will be reversed on some existing one-way streets, and on-street parking will be prohibited in certain areas, thus increasing street capacity.

- *Parking.* Additional off-street parking facilities—including seven garages to accommodate a total of 5,400 cars—will be provided in convenient locations and at reasonable rates. New parking lots are planned also, and a number of existing parking areas will be considerably enlarged.

- *Shoppers' malls.* Sections of those downtown streets in which retail business is heavily concentrated will be closed to vehicles and developed as shoppers' malls. The most ambitious of the shoppers' malls proposed for Syracuse involves closing nearly one half mile of Salina Street and parts of three intersecting streets. (The Philadelphia equivalent—in size as well as in character of the area—would be the closing of Market Street between 8th Street and City Hall and of intersecting streets, north to Filbert Street and south to Ludlow Street.)

- *Community plaza.* A 19-acre site (part of the central district urban renewal project) will be cleared and developed into a "community plaza." Present thinking calls for the construction of three government buildings at the westernmost edge of the plaza near the existing County Office Building and the War Memorial. The first of the new units to be erected will be the Public Safety Building, which is to house courts, court offices, and a city-county jail; a city office building and a federal building will complete

the group. The complex of buildings to be located at the eastern end of the plaza includes three museums and a large concert hall and auditorium. A 1,700-space parking garage will be constructed beneath the plaza, and the entire surface level between the two groups of buildings will be a landscaped park area.

This "superblock" concept—exemplified by the plaza and the Salina Street mall—will be used repeatedly in the Syracuse central district to enhance its appearance and efficiency. Implementing these and other features of the proposed program will require public and private cooperation and support, financial and otherwise, but, as the report hopefully states, "it might very well rejuvenate downtown and make it the attractive and prosperous center it once was."



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'HAZARD BENEFIT' PROGRAMS

Report Lists Eleven Means of Improving Administration of City's Programs

The "hazard benefits" provided for city employees sustaining service-connected injuries or disabilities and for survivors of employees killed in line of duty are conservatively estimated to cost \$1.7 million annually. As the BMR-PEL points out in its recently-released report, *Administration of Philadelphia's Hazard Benefit Programs*, "the best way to reduce the cost of these benefits is to reduce the number of work accidents."*

Primary Emphasis on Reporting

To this end, the report recommends that the city government *establish an improved system of reporting on the incidence and cost of work injuries*, since such information is essential to the development and full implementation of safety programs. By way of explaining the emphasis on the need for an adequate system of reporting,

Copies of the 120-page report—based on a study financed in part by the Thomas Skelton Harrison Foundation—are available at \$2.00 each. Subscribers to the BMR-PEL may obtain single copies without charge.

the benefit programs and the deficiencies inherent in the present reporting system are described.

Benefit programs. The Philadelphia Civil Service Regulations provide that city employees disabled in the line of duty shall receive full pay for two years for non-uniformed employees and three years for uniformed employees. Upon expiration of the full-pay benefit period, such employees are usually eligible for further benefits under the State Workmen's Compensation Act and, if permanently disabled, for disability pensions under the city's Municipal Retirement System. Medical and hospital care is also provided for employees disabled by work injuries. Further, in accordance with the terms of the Workmen's Compensation Act and the Municipal Retirement System, benefits are paid to the dependent survivors of employees who die as a result of work injuries.

Inadequate data. At present, the city maintains no city-wide records of the number and type of injuries and where they occur most frequently. The Managing Director does receive from each of the ten departments under his supervision a monthly report on the number of man days lost and the amount of payroll expended for work injuries, but this is not much help when you are trying to establish the basis for an effective safety program.

No coordinated total data exist which show the overall cost of the benefits provided under the various programs, partly because each of the several agencies responsible for administering the benefits tends to be concerned only with its own costs. But, since almost all of the moneys used to support these programs eventually comes out of the taxpayer's pocket, meaningful information—especially that which might lead to a reduction of incidence of work injuries and expenditures therefor—is of significant public concern.

Secondary Positions for Disabled

The implementation of a further recommendation—that calling for *extension of the program for re-employing partially disabled workers in secondary positions*—would offer the city an opportunity to realize dividends in both dollar and employee morale. In support of the suggestion that this program be broadened to in

clude disabled non-uniformed employees, the report cites the experience gained in the Police and Fire Departments during the past six years:

This program was inaugurated in 1953 and while no comprehensive study has been made of the results, it is the opinion of municipal management—an opinion endorsed by the BMR-PEL subject to detailed study—that this is a sound program which encourages the rehabilitation of the partially disabled.

How it works. To illustrate the operation of the program as it would apply to general employees, let us consider a hypothetical case. Assume that an auto body repairman in the Department of Public Property earns \$4,600 a year base pay. He loses an arm in an on-the-job accident. It takes him six months to recuperate, during which time he receives full pay as authorized by the Civil Service Regulations. Upon his recovery, he is re-employed in the Department of Public Property as clerk-messenger, a position which pays \$2,800 a year. From a special appropriation, the Director of Finance pays the employee a supplementary allowance—\$1,800 a year in this case—sufficient to bring his pay up to its former level. By placing the disabled employee in the secondary position of clerk-messenger, the city thus saves \$4,200 in the ensuing 18 months; i.e., it saves the difference between the supplementary allowance and the full pay which he would have received without performing any services.

Thereafter, the city saves \$1,420 a year for so long as the employee remains in the secondary position. This amount represents the difference between a disability pension (which he might have taken upon the expiration of the full-pay benefit period) at 70% of pay—\$3,220 a year—and the supplementary allowance.

Other Recommendations

The remaining recommendations, most of which suggest administrative improvements, are as follows:

- 1. Prepare and issue a Manual of Administrative Procedures for handling service-connected injuries.
- 2. Eliminate duplication of medical determination of entitlement to work injury benefits whether arising under Workmen's Compensation Law, Civil Service Regulations, pension ordinances or otherwise.

- Eliminate duplication of non-medical determination in cases of permanent disability.
- Establish distinct procedures for long-term and short-term disabilities.
- Amplify standards to be applied by appointing authorities in determining whether disabilities are to be considered service-connected.
- Formalize and continue present standards contained in Civil Service Commission decisions for deciding whether heart cases are service-connected.
- Devise a program for rehabilitation of cardiacs.
- Extend, at option of appointing authority, salary supplementation for employees in secondary position beyond minimum retirement age.
- Seek a codification of language covering eligibility for disability benefits.

In conclusion, the BMR-PEL report states, "the adoption of the recommendations will . . . produce greater equity and some savings. The greatest benefits, however, to be derived should accrue from improved morale and performance of employees working under a system in which the benefits to employees are better understood and more equitably administered. Finally, the development of effective recording and reporting procedures is the only suitable basis for periodic evaluation of the program in order that all may judge whether it is serving its objectives effectively and economically."



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CITY OF PHILADELPHIA'S BUSINESS



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May 11, 1959

No. 2,182

IT IS TIME FOR NEW POLICIES ON OFF-STREET PARKING FACILITIES!

The Philadelphia Parking Authority was created a decade ago when the city was rather uncertain as to the proper role of government in providing public off-street parking facilities. Moreover, at the time when the decision to create the Parking Authority was made, the city was hard-pressed financially; its only resources—small operating surpluses and limited borrowing capacity for tax-supported purposes—were inadequate to meet the costs of the proposed parking program. Further, there was little hope of financing parking facilities with borrowings outside the debt limit inasmuch as the courts were not likely to declare the untried parking program, or elements of it, to be self-supporting.

The Story To Date

The Philadelphia Parking Authority has made contribution to the community in initiating the public parking program and in bringing the two existing garages to self-supporting status. This has been accomplished despite the burden of the very large—even excessive—interest charges which

are inevitably associated with authority financing.

The Changing Picture

Over the past several years, considerable attention has been concentrated on the task of improving this area's total transportation system, an essential of which is the provision of adequate off-street parking facilities. In the interests of coordination, a large measure of the responsibility for the city's expanded parking program has necessarily been placed with those regularly-constituted city agencies which administer other elements of the transportation system.

Also, the city has for some time been in a position to use the more conventional methods—as contrasted with authority methods—to finance its parking program. Consequently in 1958—at the recommendation of the city's Director of Finance, and with the endorsement of the BMR-PEL—the city decided to discontinue the use of Parking Authority revenue bonds for financing future off-street parking facilities. At the November 1958 election, the city asked—and received—voter approval of the issuance of self-supporting general obligation bonds in the amount of \$7.0 million for this purpose.*

Inevitably, the impact of these developments has been a narrowing of the Parking Authority area of activity. Instead of the broad-scale operation originally conceived for it, the Parking Authority's major functions currently are limited to managing its two center city garages and planning for additional facilities in the downtown area.

* The city's 1959-1964 Capital Program schedules \$12.2 million for parking garages and facilities (\$9.2 million from self-sustaining loans and \$3.0 million from operating revenues); this is in addition to the \$3.1 million authorized by the city's 1958 Capital Budget.

parking facilities is doubly advantageous to the city government: (1) its responsibility for property management is lessened thereby and (2) its tax "take" is increased since the facility — once title is conveyed to a private owner — would be subject to the business and property taxes imposed by the city government and by the School District. For example, a privately-owned garage with the same capacity as the Authority's Ludlow Street facility pays approximately \$20,000 annually in real estate taxes. Thus, even if the city "breaks even" on its operation, it loses \$20,000 annually—a loss of \$700,000 over the next 35 years.

The Authority's Outstanding Bonds

If, as suggested here, a municipal agency were to assume the Authority's present functions, the city government would be confronted with a decision as to the disposition of the Authority bonds now outstanding. It is suggested that the two existing garages could be sold at market price if this is high enough to liquidate this debt, thus making possible redemption of the bonds through exercise of the call provisions at the first semi-annual interest payment date following the sale. (It would be expected, of course, that the contractual obligations to the management firm presently operating these facilities would be satisfied.)

If the garages do not command a price sufficient to extinguish the debt, the outstanding Authority bonds should nevertheless be redeemed by issuance of self-supporting general obligation bonds; the refunding operation, if accomplished in the near future, would afford interest savings of approximately \$1.0 million over the life of the bonds.*

* Assuming the issuance of 30-year serial bonds at 3½%.

Therefore, whether the garages are sold or not, it is suggested that the Parking Authority's revenue bonds be withdrawn from the market as soon as possible.

Sale of Other Properties

Last year, the city acquired sites (at 11th and Market Streets and at Broad and Spruce Streets) on which it proposes to construct two additional center city garages. It is suggested that city officials consider seriously the possibility of selling these sites to private developers. The sales should be contingent upon the developers' agreeing to provide parking facilities as stipulated by the city.

If the city were to retain ownership of the sites and eventually to construct the two new garages—which would be less desirable than having private developers do the job—it is urged that both structures be offered for public sale immediately upon their completion. Actual consummation of sales would be contingent upon the city's obtaining a price which would meet such standards as may be developed (see page 4).



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HOME RULE AND 'CLASSIFICATION'

The two previous issues of CITIZENS' BUSINESS in the current series on constitutional revision* suggested that the Constitution should contain (1) a provision guaranteeing to Philadelphia its right and power to operate its government under its own Home Rule Charter; and (2) a proper definition of home rule powers and the powers of a city operating under a home rule charter in order that the constitutional provisions may be self-executing—that is, that a type of municipality authorized to exercise home rule powers may move directly toward establishing its home rule charter and carry out the home rule powers authorized by the Constitution without the need for additional legislation on the part of the General Assembly.†

* CITIZENS' BUSINESS No. 2,172 of December 8, 1958, and No. 2,178 of March 9, 1959.

† To permit such a provision to become self-executing, certain procedural requirements should be included in the Constitution. Such requirements are discussed in a forthcoming, detailed BMR-PEL report; however, they are ancillary to the main issues and are not discussed in this series of summaries.

This is the third article on Philadelphia's interest in revising the Pennsylvania Constitution; the series is based on a BMR-PEL study financed by the Thomas Skelton Harrison Foundation.

In establishing such home rule powers in the Constitution, it is necessary to establish proper restriction on the powers in order to avoid conflict between the powers of the state and the powers of the city. To this end, the BMR-PEL recommends including in the Constitution the definition of home rule powers in general, and a further definition of home rule charter powers, as presently outlined in The First Class City Home Rule Act of 1949 (P.L. 665) and as suggested in the *Model Constitutional Provisions for Municipal Home Rule* of the American Municipal Association (1953), with some modification.

Specifically, it is recommended that home rule charter provisions with respect to the internal administrative structure and organization of a municipality operating under a home rule charter should be of superior authority to state statute—these are strictly local matters which should be of no general state-wide concern.

On the other hand, the superior authority of the General Assembly over matters of other than strictly local concern is reflected in the recommended provision that the General Assembly may restrict the home rule powers (in all but those powers which are defined as strictly of local concern under a home rule charter) through laws which are “general in effect.” Under Pennsylvania jurisprudence, a law is “general in effect” when it applies to all municipalities in the state or to all of the municipalities “of any class.”

The Classification Device

The classification device stems from a restriction in the Constitution of 1874 (Article II, Section 7) which prohibits special or local legislation on a large number of specific subjects covering, in effect, the total operation of municipal government.

To get around this restriction, the Legislature developed a system of "classification" of municipalities to provide different requirements for different types of municipalities with significantly different types of governmental problems. The Constitution was amended in 1923 (Article III, Section 34) to clarify the constitutionality of the classification device and to permit the General Assembly to classify counties, cities, boroughs, school districts and townships according to population and to pass laws applicable to any of the classes so established. Such laws would be deemed general legislation insofar as the restrictions against special legislation (Article III, Section 7) were concerned.

Courts in Pennsylvania have ruled that it makes no difference if there is only one municipality within the classification established—as in the case of Philadelphia. So long as it is theoretically possible for the classification to include more than one municipality, legislation applicable to such a class could be considered general legislation even though the practical application would, in fact, be special legislation which the Constitution supposedly prevents.

A Denial of Home Rule

Obviously, the effect of such a classification provision as interpreted by Pennsylvania courts establishes a basis for denial of the home rule principle. So long as the General Assembly may enact what is in effect special legislation applicable to only one municipality through the classification device, the door is open for the General Assembly to interfere with the practical application of home rule powers in a municipality which is the only one included in a classification established by the General Assembly.

Constitutional Safeguard Suggested

A corrective action, one which would not require any limitations on classification but would protect any one community falling within a classification from arbitrary legislative action would be to provide that legislation applicable to fewer than three cities shall not become effective in any city of the class affected until submitted to and approved by a majority of the electors of the city affected.

This type of provision would prevent an arbitrary legislative action affecting the governmental operations of one city; it would permit any city constituting a single class to acquire needed legislation which the people of the city desired and were willing to support; it would continue to leave the General Assembly free to deal with matters affecting local government which were of sufficient general interest to involve several municipalities. In the opinion of the BMR-PEL, a constitutional provision of this nature is desirable in the interests of Philadelphia and it recommends that the following provision be added to Section 34 of Article III:

No legislation which applies to fewer than three cities shall become effective in a city unless such legislation is approved by a majority of the electors of the city affected who vote thereon.



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TO TIE UP THE LOOSE ENDS

Constitutional Revision Should Complete The Job of City-County Consolidation

The consolidation of Philadelphia's city and county governments—a process initiated in 1854 and nearly completed in the past decade—represents a major civic achievement, *but the job is not yet done*. Recent progress toward completing city-county consolidation was made possible by the adoption in 1951 of the consolidation amendment (Article XIV, Section 8).*

Left to General Assembly

The amendment left it to the General Assembly to provide the manner in which the former county officers should “perform their duties and be elected, appointed, compensated and organized. . . .” To date, the General Assembly has delegated to the Council of Philadelphia the power to deal with some, but not all, of the

* For a detailed discussion of the problems of city-county consolidation, see the BMR-PEL report entitled *A Discussion of Some Proposed Revisions of the Home Rule Charter: The 1951-1956 Experience* (November 1957).

This is the fourth article on Philadelphia's interest in revising the Pennsylvania Constitution; the series is based on a BMR-PEL study financed by the Thomas Skelton Harrison Foundation.

former county offices; and the Council has acted on some, but not all, of the offices concerning which the General Assembly has authorized it to act.

For lack of statutory authority, the city has not been able to deal with the Board of Revision of Taxes, the City Commissioners, the Sheriff, the City Controller, the District Attorney, nor the Youth Study Center. In addition because of conflict with other provisions of the Constitution, the city has not been able to deal with the offices of the Prothonotary and the Register of Wills and will not be able to deal with these two offices unless the Constitution is amended to make such action possible.*

Revision Is First Step

In the opinion of the BMR-PEL, the Constitution should be revised to empower the people of Philadelphia to accomplish complete city-county consolidation through amendment to the Philadelphia Home Rule Charter. The major constitutional provision involved is paragraph (7) of Section 8 of Article XIV, which reads as follows:

Upon adoption of this amendment all county officers shall become officers of the city of Philadelphia, and, *until the General Assembly shall otherwise provide* [emphasis supplied], shall continue to perform their duties and be elected, appointed, compensated and organized in such manner as may be provided by the provisions of this Constitution and the laws of the Commonwealth in effect at the time this amendment becomes effective. . . .

The interpretation of this paragraph has been

* In addition to the constitutional change proposed here, Section 7 and 22 of Article V—the Judiciary Article—should be amended to eliminate mention in the Constitution of the offices of Prothonotary and Register of Wills insofar as Philadelphia is concerned. These two offices will be discussed in a future issue of CITIZENS' BUSINESS.

ested through a number of court decisions.* The State Supreme Court has ruled that the amendment, once adopted, brought the officers and employees of the former county offices not only into the city government, but also under the Home Rule Charter. The Supreme Court held that the following officers and agencies were city officers and agencies: The Board of Revision of Taxes, the City Commissioners, the City Controller, the City Treasurer, the Clerk of Quarter Sessions, the Coroner, the District Attorney, the Inspectors of the County Prison, the Recorder of Deeds, the Registration Commission, the Sheriff, and the Youth Study Center.

However, the Court ruled that the actual reorganization of the former county offices would have to be done by the State Legislature itself, or by the Council of Philadelphia if the State Legislature delegated the power to that body.

In the opinion of the BMR-PEL, the decision that all of the former county offices enumerated are city offices and subject to the Home Rule Charter is appropriate, and any revision of the Constitution should be careful not to disrupt this interpretation.

To Provide Legal Stability

However, the BMR-PEL does not consider that it is desirable or appropriate under Philadelphia's Home Rule Charter for the State legislature to be responsible for the reorganization of the former county offices. Furthermore, the BMR-PEL does not consider it desirable to have this power assigned to Council, whether it be delegated by the Legislature or through constitutional revision. Specifically, we believe that

* Carrow v. Philadelphia, 371 Pa. 255 (1952); Lennox v. Clark, 2 Pa. 355 (1953); Clark v. Meade, 377 Pa. 150 (1954); Com. rel Truscott v. City of Philadelphia, 380 Pa. 367 (1955).

the functions of elections and assessment of property for taxation and the law enforcement functions assigned to the District Attorney are so fundamental that the power to reorganize the offices should be assigned by charter amendment. The officers responsible for the performance of these functions should enjoy at least the same degree of basic legal stability as that afforded to other administrative offices created by the Home Rule Charter.*

BMR-PEL Recommendation

In order to accomplish the objectives of complete city-county consolidation and to complete the transfer of power from the State Legislature to the city, the BMR-PEL recommends that the reservation of power to the State Legislature contained in paragraph (7) of Section 8 of Article XIV of the Constitution be deleted and vested in the City of Philadelphia through amendments to the Philadelphia Home Rule Charter.

* The power to delegate logically acknowledges the superior authority of the agency doing the delegating; delegations, therefore, represent revocable actions and not the appropriate transfer of power.



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CONSTITUTION SHOULD REFLECT CITY'S PRACTICE OF USING 30-YEAR BONDS

THE PRESENT constitutional debt limitations are satisfactory so far as Philadelphia is concerned—though they are not necessarily sacrosanct—but some modification may be desirable with respect to the present general authorization for Philadelphia to issue debt with 50-year maturities for any purpose. Elsewhere in the state, however, the constitutional debt limits present a real problem which has led to the development of the “authorizing” as a borrowing device, and for all practicable purposes, has destroyed the purpose and principles of debt limitation.

Present Provisions

The Pennsylvania Constitution generally limits the debt of any county, municipality, or school district to 7% of the taxable assessed valuation of the taxing unit (Article IX, Section 8). However, the following special exceptions apply to the City of Philadelphia:

• The debt limit is $13\frac{1}{2}\%$ of the average of the assessed valuation of taxable realty for the preceding ten years.

This is the fifth article on Philadelphia's interest in revising the Pennsylvania Constitution; the series is based on a BMR-PEL study financed by the Thomas Skelton Harrison Foundation.

• In calculating the amount of outstanding city debt, loans for a revenue-producing enterprise may be excluded—if the revenues of the enterprise are sufficient to meet its full operating cost and debt service.

• The Council may incur debt up to 3% of the debt base without voter approval (compared with a 2% limit for other jurisdictions).

• Debt may be amortized over a period of 50 years (compared with a 30-year limit for all other jurisdictions).

These exceptions apply to the City of Philadelphia, but not to the School District of Philadelphia; the debt of the latter is subject to the same constitutional limitation (7% of taxable valuations) as the remaining taxing jurisdictions in the state. However, statutes limit the debt of the School District of Philadelphia to 2% of “property taxable for school purposes.”

The present constitutional provisions applying to the debt limits of the City

SUPPLEMENT

This is a special issue of our regular semi-monthly publication, CITIZENS' BUSINESS. Such special issues will appear from time to time.

of Philadelphia are desirable in that (1) the averaging of values in determining the debt base has a stabilizing effect, and (2) the exclusion of self-supporting debt has made it possible to finance costly, revenue-producing facilities (such as water and sewer works) without resort to such artificial borrowing devices as "authorities." It has also encouraged placing the financial burden on the user of the facilities and not on the city's general tax revenues.

While the provision for self-supporting debt contains some questionable elements,* we can report that the present provisions have proved to be practicable and, pending the development of a more satisfactory approach to the problem, we believe that the existing provisions should be retained.

An Indefinite Policy

The provision authorizing 50-year maturities for Philadelphia debt for any purpose dates back to a 1915 amend-

For example, insofar as water and sewer debt is concerned, there has not been a strong tendency in recent years for officials to subject capital programs in these fields to the same degree of scrutiny that they are obliged to give to debt covered by specific debt limits. Unfortunately, there has developed a tendency to equate the term "self-support" with the concept of "free money." Without doubt, if there were more precise debt limits for debt in these fields, a built-in pressure would exist for more prudent spending for these facilities.

ment. In the opinion of the BMR-PEL issuing bonds with 50-year maturity is, in most instances, an indefensible fiscal policy which should not have constituted a blessing. In recent years Philadelphia has turned away from the practice of issuing bonds with such extended maturities. The BMR-PEL concludes that this trend should be reflected in the Constitution: the city's present authority to issue 50-year bonds should be eliminated—except for the purpose of financing subway extensions and other major transportation facilities which require enormous capital outlay and are unusually long-lasting.

BMR-PEL Recommendation

In order to restrict Philadelphia's future indebtedness to 30-year maturity for all purposes except major transportation projects, it is recommended that the third paragraph of Section 8 of Article IX be amended to read as follows:

In incurring indebtedness for the [any] purpose of constructing subways and tunnels for rapid transit facilities the city of Philadelphia may issue its obligations maturing not later than fifty (50) years from the date thereof. . . .*

* The italicized words are to be added; the bracketed words are to be deleted.



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No. 2,185

REVISION OF DEBT LIMITATIONS

New Constitutional Provisions Would Solve A Major Problem for Local Governments

The previous issue of CITIZENS' BUSINESS in the current series on constitutional revision* suggested that the present constitutional debt limitations are satisfactory so far as Philadelphia is concerned—though they are not necessarily sacrosanct—and recommended limiting Philadelphia's authority to issue 50-year bonds to the single purpose of constructing subways and tunnels for rapid transit facilities.

Problems of Other Jurisdictions

However, outside Philadelphia, the constitutional debt limits present a real problem which has led to the development of the "authority" as a borrowing device, and for all practicable purposes, has destroyed the principles of debt limits. Moreover, the trend toward using authorities is leading to fragmentization of governmental

* CITIZENS' BUSINESS No 2,184S (June 15, 1959).

structure and extravagance in providing capital improvements; the latter arises since authority financing is outside the debt limits and, as well, is insulated from voter control.

Because Philadelphia's debt limitations are more liberal than those of other jurisdictions in the state, the problem has not been acute in Philadelphia. This is due, in part, to two reasons: (1) debt for self-supporting projects in Philadelphia (such as water, sewer, and transit facilities) may be excluded from debt limits, providing it is truly self-supporting; (2) Philadelphia real estate is assessed at a ratio of about 60% of market value, whereas the average assessment ratio throughout the rest of the state in 1957 was only about 34%.

Moreover, among the some 2,500 separate taxing districts in the state, assessment ratios range from less than 15% to more than 89%. This situation emphasizes the incongruity of using assessed valuations as a basis for debt limitations.

Revealed by Study

The present constitutional limitations on debt apply uniformly to all types of jurisdictions—counties, cities (except Philadelphia), boroughs, townships, and school districts. A detailed study of the debt structure of local governments and its relationship to debt limits was made by the State Division of the PEL in 1958.† In determining the debt of the governmental units included in the study, both general obligation debt and authority debt were considered. The study indicates the following pattern of debt status:

• *Counties and county institution districts are operating well within their constitutional debt limits.*

† PEL, *Constitutional Debt Limits for Local Governments in Pennsylvania* (1958).

• *With few exceptions, small boroughs, first class townships, and second class townships are operating well within their debt limits; where the debt limit has been exceeded, the excess is due to borrowing for revenue-producing utilities.*

• *Many cities and large boroughs have obligations in excess of debt limits; in all of these, the excess debt is attributable to revenue-producing utilities.*

• *About half of the school districts studied have incurred debt which soars far above the constitutional limits. Generally, the smaller districts (population under 5,000) have exceeded the debt limits by the widest margins; in some of these, the debt exceeds 75% of the assessed valuation. In all of the school districts, the excess debt is authority debt.*

These findings emphasize the incongruity of a constitutional debt limit which is applied uniformly to all types of taxing jurisdictions.

Recommended by Commission

Recognition of these obvious incongruities led the recent Commission on Constitutional Revision to recommend a sweeping revision of the present constitutional provisions for municipal debt.[†] The Commission recommends that the Constitution impose no maximum limit on debt, if the debt is approved by the voters, but would authorize the Legislature to set by statute such limits as it might consider desirable at any particular time and for any particular kind of taxing jurisdiction. The Commission recommends that the Constitution (1) permit the governing body of each taxing jurisdiction to incur debt—without voter approval—up to 2% of market value of taxable property and (2) exclude from debt limits all debt incurred for self-supporting, revenue-producing operations. The Commission recommends that the new provisions apply to

[†] Report of the Commission on Constitutional Revision (1959), pp. 42-45.

Philadelphia as well as to all other jurisdictions in the state.

The BMR-PEL's View

On balance, the BMR-PEL concludes that the provisions recommended by the Commission would not adversely affect Philadelphia, provided the General Assembly retains through statute the present Philadelphia debt base ($13\frac{1}{2}\%$ of the average of the previous ten years' assessed values, or in terms of market values, about 8%). It is suggested, however, that further consideration is warranted with respect to continuing Philadelphia's present power to issue securities with 50-year maturities for the special purpose of subways and tunnels. While some exception may be taken to some of the wording of the Commission's recommendation, the BMR-PEL concurs that the recommendation is, in principle, desirable. If adopted, it would restore an element of rationality to debt limitations (which are currently not only irrational but meaningless, due to the use of authorities); it would bring the authority under voter control, rendering this device needless as a borrowing instrument; and it would enable the Legislature to provide meaningful and flexible overlapping debt limitations as circumstances may require.



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NEITHER FAIR NOR EFFECTIVE

Public Apathy Is Largely Responsible For
The Status of 'Justice' in Lower Courts

Philadelphians will elect 10 magistrates in the November municipal election. The unhappy fact is that throughout the current campaign, voter attention will be focused almost exclusively on the candidates for the major offices at stake this year, with the result that only passing notice will go to candidates for the magistracy. The lack of voter interest in the "minor" offices in this forthcoming election—or in any election—is unfortunately related to an even more alarming phenomenon: the public apathy which permits bills intended to achieve some improvements in the magistrates' court system to languish in the various committees of the State Legislature.

In its report, *The Magistrates' Courts of Philadelphia*, the BMR-PEL discussed at length the

This is the last in a series of articles based on a BMR-PEL study financed in part by the Thomas Skelton Harrison Foundation, an agency dedicated to improving Philadelphia's government. Single copies of the 238-page report on The Magistrates' Courts of Philadelphia are available without charge to those who live or work in the city; to others, the charge is \$1.

deficiencies of the lower courts—the fundamental complaint being that “they do not *regularly* give to Philadelphia fair or effective administration of the judicial functions entrusted to them” — and the remedies therefor. One of the most important of its proposals was the suggestion that “demonstrated legal knowledge be made a prerequisite for the office of magistrate in Philadelphia.” The following arguments for and against this view are taken from the BMR-PEL report.

Are Untrained Men Preferable?

One argument often advanced in favor of lay magistrates is that they are all the better for being laymen or, conversely, that men with legal knowledge would not make good magistrates because they would see the legal phases of a situation rather than its essential truth.

This argument, however, is faulty on several counts. First, in deciding whether to try a case or to hold the accused for the grand jury and, second, in disposing of those cases which he tries, any judicial officer who administers justice according to law must look at the legal phases of the situation. Moreover, there is in many areas of the law an element of discretion which the judge must use in order to prevent injustice. But it is the man with broad legal knowledge who best can exercise this discretion, for he knows its proper limits as established in legal and constitutional safeguards.

Are Magistrates Neighborhood Officials?

We find it said that the Philadelphia magistrate lives or is active in the ward or general neighborhood of his court and so is a more valuable official. He knows the people who come before him, can obtain information about them in-

dividually from his political associates, and is thus better fitted to deal with their disputes than a regular judge, who has no neighborhood affiliations. Moreover he can serve them as an unofficial legal adviser.

As to the magistrate's supposed superior knowledge and understanding of the people of his neighborhood, there are a number of things to be said. One is that he hears very few cases in his neighborhood courtroom. The great bulk of the cases are heard by the magistrates in the Traffic Court and in the police courts, located in all sections of the city, to which they are assigned in rotation. Second, when they sit in their own courtrooms, the few cases heard there do not necessarily involve persons from the neighborhood; each magistrate's jurisdiction is city-wide.

Are Their Cases Simple?

Another argument advanced in favor of untrained men in the office of magistrate is that the cases which come before the magistrate are so simple that legal training is unnecessary for their decision.

It is certainly true that legal knowledge is not necessary for decisions on many matters which come before the magistrate. For example, neighborhood quarrels require chiefly a knowledge of human nature, and there are other instances where legal knowledge is not the prime requisite.

Many other matters, however, depend on legal knowledge for proper adjudication. For example, in civil cases, the smallness of the sum involved does not necessarily affect the difficulty of the case. Some small cases are simple, some are difficult. A magistrate's civil jurisdiction extends over the whole field of contracts, both expressed and implied, and the law governing such

actions is voluminous. Questions of jurisdiction arise even in civil cases. Moreover, in small civil cases, the magistrate is sometimes required to decide which law is applicable. Obviously, a man without broad legal knowledge is in no position to make such a decision.

The preliminary hearing, which may send a man away free or require him to stand trial, cannot be conducted satisfactorily if the magistrate does not know the criminal law and has no training in weighing proof. If the committing magistrate is to function effectively, he must not be dominated either by the police or by the lawyers. To be free from such domination and act according to law, the magistrate must know criminal law and procedure.

In summary criminal actions, too, the magistrate must know not only the criminal law (which is often very detailed and complicated), but also the basic constitutional guaranties governing trial procedure.

Thus, the idea that the magistrate's function is so simple that legal knowledge is not required, just does not accord with the facts.



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LEGISLATIVE APPORTIONMENT

Constitutional Provisions for Legislative Apportionment Need Broad Revision

The Pennsylvania Constitution should be changed in a number of ways to ensure equitable representation in the General Assembly. In the view of the BMR-PEL, at least seven basic changes are desirable in the interests of the City of Philadelphia. These are changes which go far beyond the run-of-the-mill efforts to correct the defect most generally alluded to—that the existing system of apportionment is deliberately designed to maintain rural domination of the State Legislature. In brief, the seven changes are:

Senatorial Restrictions. The present restriction which limits to eight the number of senators who may be elected from any one city or county should be eliminated.

Frequency of Reapportionment. The General Assembly should have authority to provide for reapportionment at more frequent intervals.

Representative Districts. Each representative should represent one district; at present, in large cities, one district may have as many as four representatives.

This is the seventh article on Philadelphia's interest in revising the Pennsylvania Constitution; the series is based on a BMR-PEL study financed by the Thomas Skelton Harrison Foundation.

Representation Base. The basis for representation should be changed from total population to registered voters.

Mandatory Reapportionment. A positive method of ensuring reapportionment should be provided. The present provision—which requires reapportionment by the General Assembly after every decennial census—is largely ignored and there is no way to enforce compliance.

Equitable Reapportionment. Within large cities, such as Philadelphia, minimum standards for equitable apportionment should be prescribed and the citizens should be provided with legal recourse when such standards are violated.

Ward Size. A minimum standard for ward size should be established for large cities to eliminate gross disparities and inequities in representation.

The BMR-PEL's views on senatorial restrictions and on frequency of reapportionment are summarized here; the remaining subjects will be examined in future issues.

Representation in the House

Membership in the State House of Representatives is set by Article II, Section 17, at approximately—but not limited to—200 members. The present membership is 210 because representation in the House, though primarily based on a rough standard of ratios of population,* is affected also by the provisions that (1) each county shall have at least one representative, and (2) those counties which have fewer than five representative ratios may have an additional representative if the population warrants an additional half-ratio. Larger counties are entitled to additional representatives only on the basis of full ratios. This system obviously discriminates against urban areas; for example, there are four counties each of which has a population of less than 10,000

* The representative ratio is derived from dividing by 200 the total population of the state, as determined by the latest federal decennial census. On the basis of the 1950 census, this ratio is 52,490 persons.

and each has one representative. The combined population of these four counties is only about 26,000 while the smallest representative district in Philadelphia has a population of about 41,000.

While this apportionment is most inequitable if population is regarded as the standard, it has a grain of justification if it is assumed that large, though sparsely populated, areas are entitled to representation in the Legislature. Taking note of this view—and also recognizing the political realities standing in the way of any drastic alteration in the present system of choosing the House—the BMR-PEL makes no recommendation on this point at this time. The Senate, however, is a different matter.

Eliminate Present Senatorial Restrictions

Membership in the State Senate is limited to 50 (one senator from each district). The 50 senatorial districts are arrived at by dividing the total population of the state by 50 and supposedly providing districts which will be reasonably equal in population.* Up to this point, the provision appears rational; however, added to Article II, Section 16, is the sentence: "No city or county shall be entitled to separate representation exceeding one-sixth of the whole number of senators." Thus, although its population entitles Philadelphia to 10 senators, it is limited to eight. This arrangement effects a particularly objectionable discrimination, and the BMR-PEL recommends that it be deleted from the Constitution.

Frequency of Reapportionment

Article II, Section 18, of the Pennsylvania Constitution limits reapportionment to 10-year

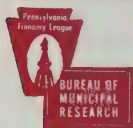
* Actually, senatorial districts are grossly inequitable; this will be discussed in a future issue of CITIZENS' BUSINESS.

periods, following each decennial federal census

There are alternatives which merit consideration. Kansas requires reapportionment every five years; Indiana, every six years. Also, the base for apportionment need not be gross population. If, for example, the number of registered voters were to become the apportionment base it would be feasible to reapportion more often. However, if the population base were to continue to be the determinant, and, as is possible, the federal government were to decrease the interval between population censuses, reapportionment could easily be geared to the federal schedule.

In any event, given the increasing mobility and shifting of Pennsylvania's population, it may be desirable to provide the General Assembly with the opportunity to reapportion at lesser intervals; at the same time, it is recognized that a reasonable amount of stability in legislative districts is desirable. To this end, the BMR PEL recommends that Article II, Section 18, be amended to add the following sentence:

The General Assembly may provide by law for reapportionment at more frequent intervals than ten years but no reapportionment shall be made at intervals of less than five years.



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October 12, 1959

No. 2,188

TREND OF MUNICIPAL EMPLOYMENT

Slight Decrease in 1959 Contrasts With Upward Spiral of 1952-58

Careful culling of the 14½ pounds of budget material* which the Mayor has presented to Council brings to light an interesting departure from a well-established trend: the Philadelphia city government had *fewer* permanent, full-time employees† on its payroll at July 31, 1959, than it did on the same day in 1958. The decrease, however, is a small one—less than 1%—and does not change materially the direction of the long-term trend.

Year-by-Year Changes

From mid-year 1958 to mid-year 1959, the city government's complement of permanent, full-time employees decreased by 196 (0.7%), having dropped from a high of 27,499 to 27,303. Over

* The 1960 operating budget document and two volumes of supporting detail.

† These are the *permanent, full-time* employees paid out of the various funds in the annual operating budget ordinance; *permanent, part-time* employees and *temporary* employees are also paid out of funds covered in this ordinance, but these groups have been excluded from discussion here, as have those employees paid out of special funds not subject to annual appropriation by the Council (e.g., loan funds).

the past seven years, the number of such city personnel has risen by 4,475 (19.6%), having moved from 22,828 in 1952 to 27,303 in 1959. The year-by-year changes are as follows:

At		Annual change	
June 30	Employees	Number (%)	
1952	22,828	—Base Year—	
1953	23,565	+ 737	(+3.2%)
1954	25,101	+1,536	(+6.5%)
1955	25,554	+ 453	(+1.8%)
1956	25,904	+ 350	(+1.4%)
1957	27,057	+1,153	(+4.5%)
1958*	27,499	+ 442	(+1.6%)
1959*	27,303	— 196	(—0.7%)

* As of July 31.

Viewed by Function or Agency

Over the 7-year period 1952-1959, changes in personnel totals of major city agencies—or of groups of agencies having functions in common—have been as follows:

Agency or function*	Employees		Change	
	6/30/52	7/31/59	No.	(%)
License and inspection agencies (4)	225	426	201	(89.3%)
Welfare agencies (3)	551	996	445	(80.8%)
Tax, fiscal, and procurement agencies (9)	898	1,420	522	(58.1%)
Dept. of Public Health	486	729	243	(50.0%)
Free Library	433	636	203	(46.9%)
Courts and court agencies (12)	1,482	1,919	437	(29.5%)
Phila. General Hospital	2,113	2,705	592	(28.0%)
Water Dept.	1,120	1,364	244	(21.8%)
Police Dept.	4,794†	5,778	984	(20.5%)
Dept. of Streets	3,823	4,455	632	(16.5%)
Recreation agencies (5)	1,629	1,851	222	(13.6%)
Public property agencies (3)	866	966	100	(11.5%)
Fire Dept.	3,087†	2,808	—279	(—9.0%)

* Listed in order of percentage change.

† Adjusted to exclude certain disabled personnel; since 1954, such employees have appeared on Regulation #32 payrolls.

What of the Future?

On face of the budget documents, city agencies are, in effect, asking Council to authorize 28,778 permanent, full-time positions for 1960—1,475 (5.4%) more jobs than were filled at July 31, 1959, and 5,950 (26.1%) over mid-1952.*

It must be noted, however, that even if the funds requested were granted, past experience would indicate the city would probably *not* fill this many positions; for example, over the past six years, the mid-year tallies show vacancies averaging 5.5% of the authorized positions.

The funds requested to support these 28,778 positions total \$135.1 million, derived as follows:

	(in millions)
<i>Salaries and wages</i>	<i>\$131.6†</i>
<i>Welfare payments</i>	<i>3.5</i>
<i>Total</i>	<i>\$135.1</i>

Behind the Figures

The additions to the city's work force and/or the increases in the cost of the "personnel package" over the past several years can properly be attributed to several causes. Among these are the shortening of the work-week for all city employees in 1953 and for police in 1957, the installation of the pay plan in 1953 and its operation in subsequent years, the "across-the-board" pay increases in 1957, and the gradual expansion of city services.

Further, the Administration estimates that cut-

* The positions requested for 1960 total 190 more than were authorized at July 31, 1959. Actually, the number of positions sought for the coming year is the most modest request of the current quadrennium, the Administration having asked for authorization of 30,471 positions for 1957; 29,191, for 1958; and 28,786 or 1959.

† Excluded from this figure are personal services appropriations requested for part-time employees, temporary employees, board members, and uniformed forces disability payments.

ting the police work-week and increasing wages and welfare benefits for all city employees will account for \$8.6 million (6%) of next year's \$135.1 million "personnel package."

The Effect of Expanding Services

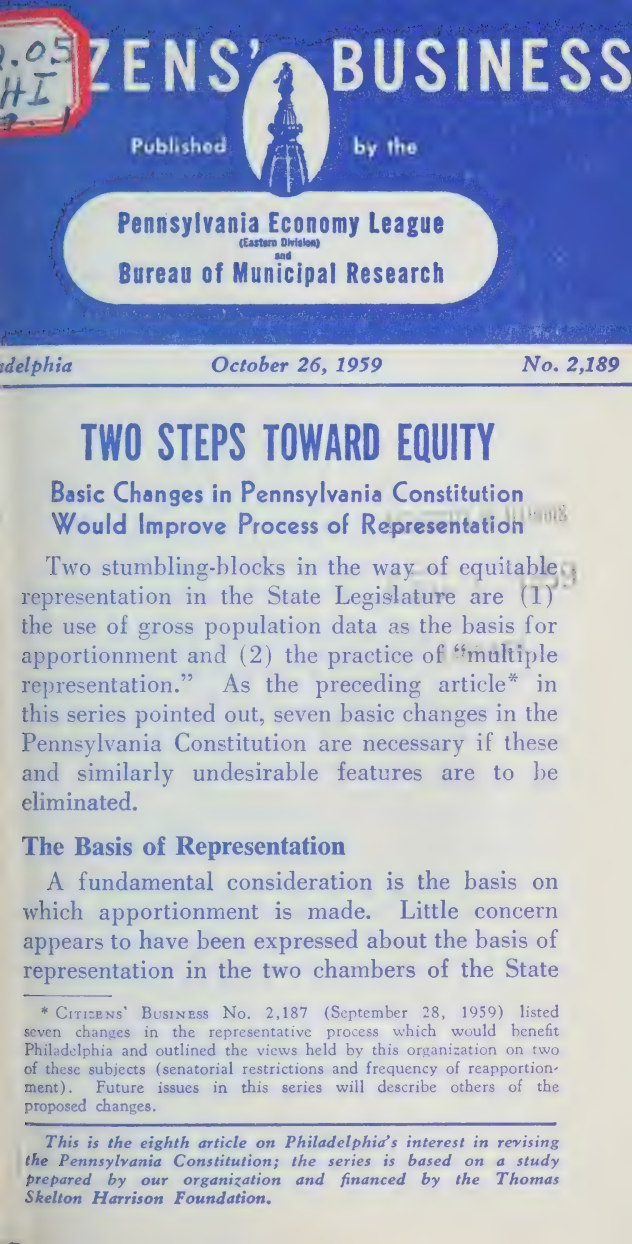
To gauge the effect which expansion of municipal services has on personnel totals and costs, reference is made to three welfare agencies which went into operation during the current year: the Child Welfare Center, the Youth Rehabilitation Center, and the Youth Conservation Commission. At July 31, 1959, these agencies were staffed by 154 permanent, full-time employees (35 fewer than authorized); for 1960—when they expect to move to full operation—the personnel request totals 256 such employees, with a price tag of roundly \$1.1 million in salary and welfare plan payments.

The BMR-PEL is not, at this point, judging the value of the three agencies cited as examples; indeed, their nature would lead one to conclude that their functions are at least as timely as tomorrow's headlines. The object here is rather to illustrate that the accretion of functions by the municipal government inevitably leads to accretion of personnel—with the costs thereupon attendant.



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CITIZENS' BUSINESS



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October 26, 1959

No. 2,189

TWO STEPS TOWARD EQUITY

Basic Changes in Pennsylvania Constitution Would Improve Process of Representation

Two stumbling-blocks in the way of equitable representation in the State Legislature are (1) the use of gross population data as the basis for apportionment and (2) the practice of "multiple representation." As the preceding article* in this series pointed out, seven basic changes in the Pennsylvania Constitution are necessary if these and similarly undesirable features are to be eliminated.

The Basis of Representation

A fundamental consideration is the basis on which apportionment is made. Little concern appears to have been expressed about the basis of representation in the two chambers of the State

* CITIZENS' BUSINESS No. 2,187 (September 28, 1959) listed seven changes in the representative process which would benefit Philadelphia and outlined the views held by this organization on two of these subjects (senatorial restrictions and frequency of reapportionment). Future issues in this series will describe others of the proposed changes.

This is the eighth article on Philadelphia's interest in revising the Pennsylvania Constitution; the series is based on a study prepared by our organization and financed by the Thomas Skelton Harrison Foundation.

Legislature, which is the total population according to the latest decennial United States census.

Yet, there are elements in this base which distort its usefulness as a basis for representation. The federal census includes in the population figures for each state and its civil subdivisions thousands who are ineligible to vote at all; among these are inmates of institutions, aliens, and minors. In addition, many persons who are tabulated for census purposes as inhabitants of one community are, in fact, not eligible to register to vote in that community (though they may be qualified to vote elsewhere); this group includes students, migratory workers, military personnel in temporary residence, et al. Another non-voting segment—a sizeable one, in many communities—is made up of persons who are qualified in all ways except one: they fail to register for voting.

Gross Distortions Result. If these were minor elements of the population, they might be ignored. However, they are so important as to introduce gross distortions into the representative process.

For example:

In one township in Chester County, the inmates of an institution for mentally retarded children comprise 60% of the total population.

In 1950, Pennsylvania's total population was 10,498,012; fully a third of this number were under 21 and many in the "over 21" age bracket were ineligible to vote for the variety of reasons already noted. The number of registered voters in that year equalled only 46% of the state's total population.

In 1956, the proportion of registered voters to total population in Philadelphia's wards varied from 33.7% to 61.3% among the wards of the city.

The argument may be put forward that all people should be included in the representation base regardless of whether they are eligible to

Philadelphia. Toward this end, we therefore recommend that the practice of multiple representation be eliminated. This can be accomplished by adding the following sentence to Article II, Section 17, of the Constitution:

A separate district shall be established for each representative in cities of the first class.

A Correction to No. 2,188

CITIZENS' BUSINESS No. 2,188 reported the number of permanent, full-time employees at Philadelphia General Hospital as having been increased by 592 (28.0%), rising from 2,113 at 6/30/52 to 2,705 at 7/31/59. Although these are the figures actually published by the city, it should be noted that they are not, in fact, comparable by reason of a change in the method of reporting. Certain groups of PGH employees (interns, student nurses, and practical nurse trainees) who were not accounted "permanent, full-time" personnel in 1952 are now so classified.

Thus, if interns, et al., are excluded for both years, the PGH personnel increase amounts to 221 (10.5%), having risen from 2,113 in 1952 to 2,334 in 1959; or, conversely, if the interns and others are added into the 1952 base, the personnel increase totals 99 (3.8%), having moved from 2,606 in 1952 to 2,705 in 1959.

STATEMENT OF THE OWNERSHIP, MANAGEMENT, AND CIRCULATION required by the Act of Congress of August 24, 1912, as amended by the acts of March 3, 1933, and July 2, 1946 (Title 39, United States Code, Section 233) of **CITIZENS' BUSINESS**, published semi-monthly from September through June at Philadelphia, Pa., for October 1, 1959.

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2. The owner is: Bureau of Municipal Research, Liberty Trust Building, 1341 Arch Street, Phila. 7, Pa. No capital stock.

3. The known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are: None.

4. Paragraphs 2 and 3 include, in cases where the stockholder or security holder appears upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting; also the statements in the two paragraphs show the affiant's full knowledge and belief as to the circumstances and conditions under which stockholders and security holders who do not appear upon the books of the company as trustees, hold stock and securities in a capacity other than that of a bona fide owner.

EMMA L. BOWMAN, Editor

Sworn to and subscribed before me this 15th day of September, 1959.

Edith M. De Felice

[SEAL]

(My Commission expires June 25, 1961.)

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December 14, 1959

No. 2,190S

AN ELECTIVE SCHOOL BOARD WITH HIGHER LIMIT ON DEBT AND TAXES?

REPORTEDLY arising out of the General Assembly's continued frustration in empowering the revenue matters of the School District of Philadelphia, the State Senate is now considering legislation which would make radical changes in (1) the method of selecting the members of the Philadelphia Board of Public Education, (2) the limit on the real property taxes which the Board is permitted to levy, and (3) the statutory debt limit for school purposes.

Each of the proposals embodied in the three bills—Senate Bills Nos. 1256, 1257, and 1272—is of major interest to citizens of Philadelphia, particularly as the State Senate will probably adopt at least one of them. (Of course, the concurrence of the House and the Governor are also needed.)

The Proposed Changes

The significant features of the three bills, as presently written, are:

- The present Board, which is appointed by the Board of Judges of the Courts of Common Pleas, would be supplanted by a board to be elected by the voters.

- Under one of these bills, a new ceiling—apparently 20 mills—would be established for

the real property tax rate. In fact, however, the new ceiling would be a variable one and might, under present circumstances, permit the imposition of this tax at the rate of 35 mills.

- Under another of the bills, the School District would be entitled to levy any or all of the taxes authorized under Act 481 of 1947. These include the per capita tax, wage tax for school purposes, occupational tax, and others not specifically prohibited by the statute.

- As reported out of the Senate Committee, the intent of the third bill is to set a firm 25-mill ceiling on the realty tax rate and, simultaneously, repeal the School District's present general business tax as well as its 4-mill personal property tax; the estimated yield from these taxes in 1960 is \$6.8 million and \$3.2 million, respectively.

- The statutory debt limit for school purposes would be raised.

Partisan Election Intended

While all the details are not available,

SUPPLEMENT

This is a special issue of our regular semi-monthly publication, CITIZENS' BUSINESS. Such special issues will appear from time to time.

presumably it is the intent of Senate Bill No. 1257 that the members of the Board of Public Education shall be elected on a partisan ballot. (The bill, as initially introduced, would have had the voters choose Board members from a panel of candidates named by the Board of Judges.)

In Favor of Direct Election

Among the principal arguments for direct election of the Board of Public Education are:

- Education is a matter of major community concern, and a directly elected Board can more effectively represent the people in administering the school system.

- *Given the fact that the Board must determine the expenditure levels of the school system and, in major degree, the tax levels, a responsiveness to the taxpayer-electors would be assured by the election process.*

- Adoption of this system would bring the method of selection of the Board more in line with practice elsewhere in Pennsylvania and in the large cities in other states.

- *The Board of Judges would be relieved of one of its many non-judicial duties. (This is in line with PEL and BMR recommendations that the non-judicial duties of the judges be reduced.)*

There Are Disadvantages

Those who argue against direct election usually cite its principal disadvantages as including:

- The changeover would cost Philadelphia much of the good which derives from its present system. The appointive system of choosing the Board of Public Education has generally produced a non-political membership of that body; this circumstance has enabled the Board to function in an atmosphere relatively isolated from the mainstream of politics and to concentrate upon educational problems and their solutions.

- *An elective board would not have the independence traditional to the appointive Board, and it has been the independence of the appointed Board which has protected it against the pressure group techniques which frequently run rampant in politically-chosen boards.*

- Direct election invites a loss of quality in the composition of the Board. Few of the elements of community leadership now represented on the Board would normally take the trouble to campaign for elective position.

- *If elected on partisan political ballots, the practical choice of candidates (and therefore of members) would rest largely with political party organizations. Hence, except in the very broadest sense, future board membership would largely represent party organization determinations.*

Instead of Partisan Ballots

Two possible alternatives to the method proposed in this bill—direct election on a partisan ballot—would be (1) to revise the method of appointment, or (2) to elect on a non-partisan ballot (with an open primary followed by a runoff election between the top-ranking candidates).

In a non-partisan election, participation by the political parties would be specifically prohibited. Further assurance of non-partisan complexion and high quality candidates could be afforded by the use of screening devices, such as special qualifications for candidates and nominating panels. One of these might be a panel of representatives of educational and/or civic organizations assigned duties similar to those of the Civil Service Panel or the Finance Panel, both of which were created by the Philadelphia Home Rule Charter. These panels select three names for each position to be filled; from these lists, the Mayor is obliged to make his selections.

Then and Now; Here and There

The public school system of the City of Philadelphia may be said to have started in 1818 when a public school system—the first in Pennsylvania—was established for the County of Philadelphia. At that time, the city comprised one of four sections into which the County was divided for purposes of school administration; the municipal officers of the various jurisdictions in each section elected a total of 42 “school directors.” Although the directors had some administrative responsibilities, their primary duty was to appoint annually members of a “Board of Controllers,” which had countywide jurisdiction.

Consolidation Made Changes

The Philadelphia Consolidation Act of 1854 vested public school powers and title to all public schools in the City of Philadelphia. Each of the 24 wards in the newly-consolidated city elected 12 school directors, and one member of each “ward board” was designated to serve for one year on the Board of School Controllers.

In 1867, the authority to select the Board of Controllers was shifted from the ward boards to the Board of Judges of the Courts of Common Pleas. Later, in 1870, the Board of Controllers became known as the Board of Public Education. By 1905, the number of Board members had been increased to 45 (due to increases in the number of wards), but legislation in that year reduced the membership to 21 and increased the term of office to three years.

First School Code

The year 1911 may be considered a landmark for Philadelphia's public school system. In that year, the Legislature adopted the first Pennsylvania School Code, which among other things: (1) set the membership of the Philadelphia Board of Public Education at its present level (15); (2) lengthened the term of membership from three to six years; (3) continued the method of selecting Board members by judicial appointment; (4) transferred school property and debts from the City of Philadelphia to the School District of Phila-

delphia; (5) empowered the Board of Public Education to prepare budgets, make appropriations, and levy and collect taxes, the last-named power being subject to those limitations which in recent years have made it necessary for the State Legislature to act on the rates and subjects of taxation. (Prior to 1854, these powers were vested in the numerous municipal governments in the County of Philadelphia; and from 1854 to 1911, in Philadelphia City Councils.)

Control Never Direct

The concept of the “board of school directors” as first established in 1818—and perpetuated in the “ward boards” (following city-county consolidation)—did not finally disappear until 1931. The School Code of 1911 changed the name of the old “ward board of directors” to the “board of visitors,” the function of which was to visit the schools in their wards, submit reports on such visits to the Board of Public Education, and appoint janitors for the elementary school buildings; the provision for the “board of visitors” was finally deleted from the School Code in 1931.

Thus, the citizens of Philadelphia never have had the opportunity to exercise direct control over the public school system. Prior to 1867, the power was, in effect, vested almost entirely in political organizations, and after that date in the judges of the Common Pleas Courts.

How Chosen Elsewhere

If Senate Bill No. 1257 were to be enacted, how would the method of selection and number of members of the Philadelphia Board of Public Education compare with those of the governing bodies of other public school systems in the United States, particularly those in the larger cities?

In 33 states, all school directors are elected; in nine other states, they are elected in some districts and appointed in others; and in six states, all school directors are appointed.* Of the 42 states in which some or all school di-

* No data were readily available on Hawaii and Alaska.

rectors are elected, 32 states require the elections to be conducted on a non-partisan basis; in six states, elections are partisan; and in four states, partisan elections are held in some districts and non-partisan elections in others.

In the 10 largest cities (excluding Philadelphia), directors of the public school systems are elected on non-partisan ballots in five cities, appointed by municipal officials (mayor and/or council) in three cities, and in one city—

San Francisco—are appointed by council, subject to confirmation by the voters in a non-partisan election. The remaining city of the ten—Washington, D.C.—is the only one which, like Philadelphia, has a school board appointed by judges; the District, of course, has no real degree of self-government.

In each of these 10 cities, the school boards have fewer than 15 members; in five of them, the number of members is seven or fewer.

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PROCEED WITH CAUTION

Impact of Expressways on Property Values Should Influence Type of Construction

The grand design for a network of super-highways in the Philadelphia area has been realized partially. To complete the pattern, many miles of expressways are still to be constructed within as well as outside the city.

Money Is A Measure

Some idea of the size of the job to be done within the city limits is conveyed by the expenditures contemplated for city-state highways in the next six years. According to the *1960-1965 Capital Program of the City of Philadelphia*, an estimated \$347.6 million will be expended for land acquisition and construction of nine "city-state" highway projects during this period. For lack of a better measure, we note that this amount is roundly 40% of the total spending scheduled by this capital program. (The \$347.6 million to be spent for these highway projects over the next six years does not represent their total costs inasmuch as prior capital programs authorized the outlay of approximately \$53.9 million. Thus, the aggregate cost of these projects is expected

to be \$401.5 million—\$13.6 million, city funds; \$387.8 million, state and federal funds; and \$0.1 million, township funds.)

Three Major Roads

On the basis of present estimates, the most costly of these several enterprises will be the Delaware Expressway, requiring the outlay of \$184.3 million for the 14-mile stretch which will lie within the city limits (from Packer Avenue to the Bucks County Line). The Crosstown Expressway, which will link the Delaware Expressway to the Schuylkill Expressway and the Industrial Highway, is priced at \$100.0 million at present; and the Northeast Freeway, which will parallel the Roosevelt Boulevard from Adams Avenue to the Bucks County Line, at \$53.2 million.

Effects of Expressways

In an urban community, the value of almost all areas adjacent to an expressway route are affected—some for better and many for worse, depending upon the type of expressway constructed. An economic impact study* prepared for the City of East Orange, New Jersey, indicates that a depressed (or below-grade) expressway can have a favorable effect—on a long-term basis—on property in the immediate vicinity of the highway. A different pattern of value was found to prevail in areas close to elevated structures, including an above-grade expressway and a railway. (Essentially, the findings of this study tend to confirm the view that the limited-access highway built in an urban area will affect the values of adjacent property in much the same way that mass transit facilities have: blight has

* Study and Report: *East-West Freeway, F.A.I. 105, East Orange, New Jersey.*

Compensation Study Available

A limited number of copies of the recently-published Philadelphia Uniformed Forces Compensation Study are available at \$2.50 each. In accordance with our usual practice, single copies are available without charge to our members.

The 132-page report—prepared at the request of the Council of the City of Philadelphia—uses five standards (cost-of-living trends, wage rates in private employment, etc.) to appraise the salaries, working conditions, and pensions and other fringe benefits of Philadelphia's policemen, firemen, and park guards.

generally followed the path of an elevated rail structure while, on the other hand, property values usually are enhanced by subways.)

Basis of Study

The study was based largely on examinations of property values and sales activity over a 14-year period (1945–1958) in areas adjacent to three sections of the Garden State Parkway (a below-grade section in East Orange, a below-grade section in Bloomfield, and an above-grade section in Bloomfield) and to an elevated railway in East Orange.

The findings and conclusions which relate to the effect that the Parkway—constructed in 1953–1955—has had on property values in East Orange and in Bloomfield are commended to the attention of Philadelphians. Both of the below-grade sections were cut through residential districts, while the above-grade section traverses an area of mixed industrial-residential uses. This or-

ganization believes that Philadelphia would benefit if the governmental agencies responsible for deciding upon the type of expressway construction to be used here were to heed the findings of this economic impact study.

Some of the major items are as follows:

- *Property in the "band areas"—i.e., 800' to the east and 800' to the west of the Parkway—of the below-grade sections experienced a steady growth in value during and since the Parkway was constructed, with about half the increase occurring since construction was completed.*

- *In the "control areas"—i.e., regions beyond the band areas—property values increased during this period, but at a lesser rate. For example, values in the East Orange band areas increased 22.3%, while values rose only 14.0% in the control area.*

- *After the Parkway was completed, values rose much more rapidly in the areas adjacent to the below-grade sections than in the control areas, which is taken as evidence that this type of construction enhances property values.*

- *In Bloomfield, it was found that since construction of the above-grade section, the value of adjacent property has increased at a much slower rate than has the value of property in the control area, which is more remote from the right-of-way.*

- *Even more indicative is the finding that since completion of the Parkway, values in the area adjacent to the above-grade section are increasing more slowly than are values in the areas bordering both the below-grade sections.*

- *Property values are higher in the two areas where the Parkway is below-grade than in the vicinity of the above-grade section, despite the fact that speculation forced prices up rapidly in the latter area both before and during construction of the road.*

Implicit in this presentation is the hardly-veiled warning that the above-grade section of the Parkway threatens to affect the area of Bloomfield adjacent to it in much the same way that the elevated railway—built in 1922—has damaged values along its route through East

Orange. This is all the more pertinent to the Philadelphia situation when it is recalled that elevation of the railway was protested by East Orange officials and citizens for numerous reasons, among them being the contention that *the elevated construction would result in the creation of a "Chinese Wall."*

Other Facets of Study

Study teams visited several other cities, their mission being to gauge the effects which expressways have had on property values. Further, questionnaires completed by bankers, real estate brokers, appraisers, and assessors, city planners, *et al.* were analyzed and found to indicate that "in most cases any type of expressway will have a deleterious effect on adjacent property, but between the two types, the elevated and the depressed, the former produces a considerably greater effect."

And What of Philadelphia?

It does not necessarily follow that Philadelphia must henceforth construct only below-grade expressways. However, the findings cited here and others contained in this study (which may be consulted in our library) are sufficiently impressive to lead this organization to suggest that Philadelphia should weigh carefully the economic impact which its proposed expressways may have and use that type of construction which will be least harmful.

An Old Refrain

While we are issuing cautions, we will note also that no Philadelphian is apt to favor elevation of any highway structure which threatens to endow the city with underpasses—pedestrian or vehicular—reminiscent of those provided by its

late and not-so-lamented "Chinese Wall." In addition to being unsanitary and unpleasant, such underpasses constitute traffic hazards and, because they are difficult to police, invitations to crime.

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PUBLIC ASSISTANCE TRENDS IN PHILADELPHIA IN THE FIFTIES

The number of persons dependent on public assistance in Philadelphia has increased steadily in the past six years, and thus the state's public assistance program continues to be a major governmental function in Philadelphia.

In 1958, the latest full year for which figures are available, the expenditures of the Philadelphia County Board of Assistance (a state agency) totalled \$38.6 million—a sum greater than the operating budget of any one agency of the city government, and equal to about 40% of the Philadelphia School District's operating budget.

The Over-All Trend

From an all-time low in 1945 (48,934 persons), assistance rolls rose annually until 1950 (97,629 persons), dropped in the next three years, but climbed upward in each year since 1953.* By November 1959, when 87,585 persons were on the rolls, the increase over the

* Based on monthly and annual reports of the Philadelphia County Board of Assistance. The figures cited are average number of persons on the rolls during the year.

1953 average of 53,247 persons was 65%. Thus, in late 1959, about 4% of Philadelphia's population was on the public assistance rolls.

The County Board of Assistance administers five programs of regular assistance grants, as shown in the following table.

<u>Program</u>	<u>% of 1958 recipients</u>	<u>% of 1958 grants*</u>
Aid to dependent children	57	46
General assistance	20	20
Old age assistance	15	21
Aid to disabled	5	8
Blind pensions	3	5
Total	100%	100%

Aid to Dependent Children

The major components of the steady increase in assistance rolls are the trends in aid to dependent children (ADC) and general assistance.

The average number of persons receiving ADC grants was 49,634 in 1959 (11-month average), which is 80% above the number (27,449) who received such aid in 1953. The year-by-year trend is shown below.

<u>Year</u>	<u>No. of persons</u>	<u>Increase over prior year</u>	
		<u>No.</u>	<u>%</u>
1953	27,449		..
1954	27,703	254	1%
1955	30,798	3,095	11
1956	33,206	2,408	8
1957	36,154	2,948	9
1958	43,216	7,062	20
1959†	49,634	6,418	15

There are two factors in this trend. One is the increase in the number of cases—from 7,011 in 1953 to 12,122 in November 1959; the other, the increase in the average number of persons

* Excludes operating costs and assistance for burials, school and other medical care, and foster care.

† 11-month average.

Finances of the Board of Assistance

The Philadelphia County Board of Assistance is a branch of the state Department of Public Welfare. The 11 members of the board are appointed by the Governor for three-year overlapping terms, and serve without compensation.

Total expenditures of the board were \$38.6 million in 1958. Of this, \$18.0 million (46.5%) was derived from federal funds and \$20.6 million (53.5%), from state funds. The federal government participates in financing all of the programs except general assistance; this program is financed entirely by the state.

Of the total amount expended by the Board in 1958, 85.8% was required to finance the five regular grant programs; 7.7%, operating costs; and the remaining 6.5%, special grant programs (primarily for medical care of grant recipients).

per case—from 3.92 in 1953 to 4.25 in 1959. In fact, even when the *number of cases* was declining between 1950 and 1953, the *average case size*—i.e., the number of persons receiving aid per case—was increasing annually (from a low of 3.64 in 1950).

General Assistance Grants

General assistance rolls increased both in number of cases and in average case size since 1954, the recent “low.” The number of cases increased from 4,911 in 1954 to 7,898 in November 1959; the number of persons receiving aid from 7,136 in 1954 to 16,748 in November 1959. General assistance fluctuates

greatly with changes in employment opportunities. In 1959, the “high” occurred in March when 20,391 persons were on the rolls.

Other Categories of Aid

The old-age assistance rolls carried 12,112 persons in November 1959, up 554 over the same month in the previous year. This recent increase contrasts with the long-term trend, which shows a decline in old-age assistance rolls, stemming primarily from greater Social Security coverage. Between 1950 and 1958, the old-age assistance rolls declined annually.

The number of blind pensioners has shown relative stability in the past decade, fluctuating around the 2,450 mark.

Aid to disabled began as a separate program in 1951. The number of persons on the rolls has increased annually, standing at 4,845 in November 1959.

Turnover in Public Assistance

The public assistance caseload is never static; turnover is considerable. In 1958, for example, when the average caseload was 35,000, there were 16,200 cases added during the year and 12,900 separations from the assistance rolls. Reasons for cessation of assistance are varied; in 1958, the two major reasons were receipt of income from employment (26% of cases closed) and death (18%). Among the major reasons for closing ADC cases were employment of parent (36% of cases closed), contributions from outside the home (11%), other benefits (9%), voluntary withdrawal or removal from city (9%), and failure to comply with agency regulations (13%).

What of the Future of Public Assistance?

Ideally, the objective of public assistance should be the elimination of the programs through

the elimination of dependency. Movement toward that goal requires constructive planning and action by the total community. Some of the steps which would reduce the number of persons dependent on public assistance are:

- *Full coverage of the work force by pension plans providing old age and disability benefits sufficient for a minimal standard of living.*
- *Provision of employment opportunities for all persons able to work—including the handicapped and those advanced in years.*
- *Increased efforts of churches, schools, social agencies, and courts to solve the problems of illegitimacy and desertion.*

The Board's Programs

The staff of the County Board of Assistance tries to help potentially employable persons achieve self-supporting status and seeks to find other means of support for unemployables.

For example, in working with applicants for general assistance, the caseworkers provide counseling and referral for employment, rehabilitation, and training opportunities.

As to aid for dependent children, the caseworkers assist mothers to locate and obtain support from absent fathers. Moreover, where the father is in the home, but is incapacitated and thus unable to support his family, the caseworker tries to help make the family self-supporting. In some instances, programs aimed at rehabilitating the father are successful; in others, the mother is prepared for outside employment while the father assumes responsibility for supervising the home during the day.

Unable To Stem the Tide

It is well that in addition to financial assistance, the Philadelphia County Board of Assistance provides casework directed at reducing dependency. The programs undertaken so far,

however, have done little to counteract the steady trend of the rising assistance rolls. Imaginative community action will be required in order to eliminate the causes of increasing dependency on public funds. There is, in particular, a group of "hard-core" cases in which avoidance of cradle-to-grave care for successive generations will be contingent upon our ability to martial the capacities of various public and private agencies. Otherwise, we can expect to see the public assistance rolls continue to grow indefinitely.

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PROBLEM SOLVERS

New Agencies Seek Answers to Area-Wide Problems of Government in This Region

Nearly five years have gone by since the federal Commission on Intergovernmental Relations made its report to the President of the U.S. The Commission saw, among other things, a vital need to strengthen local government and, to that end, strongly recommended that intensive study be given the governmental problems of metropolitan communities. Further, it suggested that such studies be conducted on a cooperative basis (involving the joint efforts and varied outlooks of all levels of government, of universities, of private foundations, and of civic agencies) so that exploration of problems and of new and existing approaches to their solution would be as comprehensive as possible.

Greater Effort Expended

In so expressing its views on the need for attention to metropolitan area problems, the Commission voiced precisely the beliefs of many individuals, governments, and private organizations in this section of the Delaware Valley. Indeed, the result could hardly have been otherwise since

the report of the Commission was based on its members' observations at the "grass roots" level of citizen and governmental trial and endeavor.

As is generally known, the nature of certain area-wide problems here had been recognized and resolved satisfactorily—by interlocal contract, by creation of intergovernmental operating agencies, or by other means—long before the Commission came into being. And, while the Commission was at work, some of the regional problems confronting communities here were under exhaustive study. However, the galaxy of study groups whose focal range is the entire Delaware Valley or segments thereof has been augmented in recent years. Perhaps the utterances of the Commission had naught to do with this phenomenon; then, again, perhaps the prestige of that body gave sanction, and thus impetus, to such activity.

Whatever the reasoning employed to explain their flourishing, the identities and functions of at least some of these newly-formed groups tend to become confused in the public eye—confused with each other as well as with older organizations. (The resources of many of these older organizations—even their names cannot be listed in this limited space—have been and continue to be utilized in the search for answers to regional as well as local problems. Interestingly enough, they have found it advisable in some instances to push for the creation of new and more truly regional agencies; PENJERDEL, for example, was the fruit of the concerted thinking and effort of several of the area's civic agencies and universities.) Among the newer groups now studying governmental problems of significance to the metropolitan area, or to the larger area termed the Delaware Valley, are: (1) PENJERDEL, (2) Penn-Jersey Transportation Study, (3) Governor's

Our Continuing Role

Now, as in the past, regional problems command much of the attention of this organization. For example, it is just "wrapping up" its report on southeastern Pennsylvania's highway system, a study of which was requested by the Governor's Metropolitan Study Commission.

Philadelphia's Urban Traffic and Transportation Board, which has among its responsibilities that of "planning a program of inter-county and inter-state cooperation," was created in 1954 pursuant to the recommendations of the BMR.* The Eastern Division of the PEL* has long advocated inter-governmental cooperation; typical of its work is the award-winning report on The Refuse Problem in Delaware County, which urges a county-wide approach to the refuse disposal problem.

* The Bureau of Municipal Research, organized in 1908, and the Eastern Division of the Pennsylvania Economy League, dating from 1933, merged operations and facilities in 1954.

Metropolitan Study Commission, and (4) DRBAC.

PENJERDEL

The Pennsylvania-New Jersey-Delaware Metropolitan Project, Inc., which is known better by the contraction PENJERDEL, was established in 1957. Its activities—supported by a Ford Foundation appropriation of \$900,000 (to be paid over a period of seven years) and by future local contributions in equal amount—are guided by a governing board comprised of representatives of civic agencies, educational institutions, and other groups in the 11-county, tri-state study area.

Essentially, PENJERDEL's mission is to provide leadership in studying regional problems and in encouraging public understanding of possible solutions. As prelude and accompaniment to the cutting of this thumping big Gordian

knot, or series of knots, the efforts of numerous agencies already at work on various regional projects, or segments thereof, must needs be coordinated to some extent, thereby making possible the dissemination of information to these groups and to the public generally. PENJERDEL is seen as the vehicle to encourage this coordinated—rather than "scattered-shot"—approach.

It is expected that PENJERDEL will use, as needed, the existing research facilities of universities, governments, and civic agencies. Therefore, one facet of PENJERDEL's intended role is to avoid wasteful duplication in the over-all attack on regional problems; i.e., to minimize effort and maximize results, rather than the converse.

Penn-Jersey Transportation Study

The Penn-Jersey Transportation Study is a three-year enterprise initiated and financed by 12 governmental units (nine counties in the Philadelphia-Camden-Trenton metropolitan region, the highway departments of Pennsylvania and New Jersey, and the U.S. Bureau of Public Roads).

Under terms of the agreement signed by the participating governments in 1958, the total budget for the study is \$2,450,000; the federal government will provide half this amount, and the state and local governments, the remainder. General control of the study project is in hands of a Policy Committee composed of 13 representatives of the agencies joined in the agreement. Administrative responsibility is vested in a seven-member Executive Committee which works closely with the Executive Director. The agreement also specifies that two advisory bodies—whose natures are indicated by their titles—

shall be established: the Technical Planning Committee and the Civic Advisory Committee.

The stated objective of this study is to establish "a continuing planning process" for the region's transportation facilities. To do so entails initially a prodigious labor: the collation and analysis of existing data and the development of additional information relating to the use, need, cost, administration, governmental responsibility for and regulation of transportation facilities in the region; a likewise exhaustive examination of such factors as land use, economics, and population trends, as these affect the transportation services; and the shaping of a construction program which is realistic in terms of fiscal priorities as well as need.

Governor's Study Commission

The Study Commission of the Philadelphia Metropolitan Area was appointed in 1956 by the Governor of Pennsylvania. In addition to its 15 official members (each of the five counties in southeastern Pennsylvania is represented by three persons), there are several invited *observers*, representatives of local and state officials in Delaware and New Jersey, who participate in meetings and keep their principals informed as to the Commission's activities. The Commission is also served by a number of *research consultants*, one of whom is the Director of the Eastern Division of the PEL.

The Commission's purpose, as stated in the resolution authorizing its creation, is to "make a study of the facts . . . on any subject related to proper, orderly, and efficient growth and development of the five-county metropolitan area and its relationship to the larger metropolitan region." Most of its financial support has thus far been derived from federal and state grants

on a matching basis. The Commission employs an Executive Director and a small staff. The major research studies are conducted by agencies retained on a contract basis. The three major studies now under way and their estimated costs are: (1) municipal and county road system in the five-county area—\$52,500; (2) sewage disposal facilities—\$25,000; and (3) land use controls—\$17,500.

DRBAC

The members of the Delaware River Basin Advisory Committee represent the Governors of the states of Delaware, New Jersey, New York, and Pennsylvania and the Mayors of the cities of New York and Philadelphia. It acts in advisory and liaison capacities to the U.S. Army Corps of Engineers insofar as the work of the latter agency affects the Delaware River basin. In addition, the Committee has established the Delaware River Basin Research Corporation as its research arm. At the behest of the Corporation, the Syracuse University Group undertook to study "governmental organization for development of the water resources of the Delaware"; a grant to support this work, known as the Delaware Valley Project, was obtained from the Ford Foundation.

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A PLUMB LINE TO GOVERNMENT

**The Questions People Ask Us Serve As
An Index to the Status of Government**

One of the least publicized and most relentlessly fascinating features of this organization's work is its "general information service." Each year, several hundred questions on things governmental are answered by our librarian or by other staff members. The inquiry may be made in person, by mail, or by telephone; the reply may entail the work of just a few minutes—or of several hours. Among those seeking information are government personnel, students, civic groups, and research agencies.

From Near and Far

As might be expected, most of the questions are of local origin; however, many inquiries—and, sometimes, the inquirers—do come from distant places in this and other countries. During 1959, for example, we were called upon to explain the workings of the Philadelphia city government to delegations of officials from Africa, South America, and West Germany.

Occasionally, questions relate to the entire genre of governmental research agencies, tax-

payers' associations, and the like, or to the history, functions, and financing of a specific agency; in the main, this type of inquiry emanates from a civic-spirited group bent on establishing in its home town an organization dedicated to the improvement of local government.

Now and then, a correspondent seeks detailed information on CITIZENS' BUSINESS—its origins, purpose, cost, circulation, etc. It is exceedingly pleasant to reply to such communications, in part because they help destroy the illusion (one common to publishers of periodicals) that only the United States Post Office has a keen, sustained interest in the publication.

Infrequently, we entertain requests for information which are so "broad-gauged" that the request in turn entertains us; in this category are such gems as, "Send me all you have on Philadelphia's government," or "Tell me everything you know about city charters." (One does toy somewhat gleefully with the prospect of actually sending "everything"—by express collect—and arranging to be on hand to observe the recipient's reaction when a ton or two of assorted literature is trundled in.)

But these are the exceptions. Inquiries are much more likely to be specific. Some are presented in the form of questionnaires, which is very desirable IF space is allowed for the insertion of answers. (It is our firm belief that a super-secret, world-wide brotherhood is engaged in a successful conspiracy to diminish the space allotted for answers on all questionnaires.)

In the Mainstream of Public Affairs

With truth, it may be said that the "pulse" of our times is readily discernible from a review of the subjects on which information is sought. For example, in the early months of each odd-

This Is Why We Answer Questions

The PEL is a state-wide, non-partisan governmental research and counseling organization working at the state and local levels for sound government conducted in an economical manner. The Eastern Division, established in 1933, serves Bucks, Chester, Delaware, and Montgomery counties and, since 1954, has operated in Philadelphia in association with the BMR.

The BMR was organized in 1908; its charter sets forth its purposes as follows:

To serve Philadelphia as a non-partisan and scientific agency of citizen inquiry, which shall collect, classify, and interpret facts regarding the powers, duties, limitations and administrative problems of each department of the city government; to make such information available to public officials and to citizens . . . and to promote the development of a constructive program for the city . . .

numbered year, as the majority of the state legislatures convene in biennial sessions, there is apt to be an assortment of questions submitted by legislative reference bureaus on subjects ranging from the revenue potential of various taxes to the laws on the collective bargaining rights of public employees.

That local and state governments and citizens' groups are deeply concerned with rising governmental costs and, concomitantly, with the imposition of revenue measures which will distribute the tax burden equitably but will not inhibit commercial and industrial growth is evidenced by the character and preponderance of fiscal questions. Typically, these involve comparisons of salaries and fringe benefits of public employees, costs of governmental services, rates and subjects of taxation, and the latter's probable effects on a community's economic base.

A Reflection of Progress

Philadelphia's re-establishment as one of the more progressive of our cities is reflected by numerous inquiries as to municipal policies on capital improvements, "pay-as-you-go" financing, urban renewal, and pension administration.

Cities in, or approaching, the convulsions of governmental reorganization likewise look to Philadelphia for guidance. Our agency is called upon from time to time to provide, among other items, a "promotion kit" exhibiting the literature used here during the campaign for adoption of the Philadelphia Home Rule Charter. Happily, some of this material has proved to be adaptable for use in charter campaigns elsewhere.

Closer to Home

On the heels of the enactment in 1957 of Pennsylvania's "Optional Third Class City Charter Law" has come a continuing stream of inquiries from sister cities which are considering a changeover in government—from the commission form to the mayor-council or council-manager form. Replying often entails not only a description of the organizational framework of Philadelphia's government but also an appraisal of its operation under the Home Rule Charter with its "strong-mayor" concept.

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BUILDING PUBLIC SCHOOLS

**'Portable' Classrooms Help Stretch
Construction Dollar in Philadelphia**

The School District of Philadelphia has undertaken an extensive construction program in the years since World War II ended. In the 14 years 1946 through 1959, the school system has invested about \$95.3 million* in new schools, additions, and major renovations—an average annual investment of \$6.9 million.

These figures indicate the efforts which the Philadelphia public school system is making to replace older facilities, meet increased enrollments, adjust for shifts in attendance and service areas, and reduce class sizes.

47 New Schools Built

From 1946 through 1959, 47 new schools were completed: four senior high schools; one senior-unior high school; four junior high schools; and 38 elementary schools. This total of 47 new schools represents 19% of the 247 separate schools in the Philadelphia public school system in 1959. Other major construction during this

* Includes all construction for which bids had been approved at October 13, 1959.

period included classroom additions, new auditoriums, all-purpose rooms, or major renovations at 45 other schools.

In all, 1,590 new classrooms* with a rated capacity of 59,038 pupils have been added to the Philadelphia public school plant in the period 1946-1959.

What Are "Portable" Classrooms?

In addition to using conventional construction methods, Philadelphia's public school system has pioneered, in this area, in the use of "portable" classrooms.

The "portable" classroom is so designated because 75% of the room is salvageable (all but the concrete foundations and some of the interior finishing) and can be removed to a new location.

The so-called "portable" schoolrooms are constructed of pre-fabricated exterior metal panels set on concrete foundations. They are insulated, the interior walls finished with fire resistant materials, and the floors covered with asphalt tile. Most of the portable schoolrooms have been constructed as additions to existing school units, and they obtain heat and other utilities from the existing school. Generally, the portable schoolrooms are connected with the existing school by metal corridors, although at a few schools, the portable rooms are not connected with the main building.

Each portable classroom has the standard dimensions of a Philadelphia classroom (24 feet by 32 feet) and has excellent lighting and ventilation.

Portable Installations Since 1957

Philadelphia's public school system installed its

* Includes kindergarten, special, and adjustment rooms; excludes cafeterias, gymnasiums, auditoriums, and libraries.

first portable classrooms in October 1957. In the following two years, portable schoolrooms were installed at 19 elementary schools and one junior high school. Most of the installations consist of four to six classroom additions to existing buildings. Two installations are "all-purpose" rooms (used for recreation and assembly purposes), which are the equivalent to 2½ classrooms in size.

One installation, consisting of 12 portable classrooms, to which have been added boiler room, toilet rooms, and a principal's office, serves as a separate school organization.

In summary, the 20 installations of portable schoolrooms include 108 classrooms with a rated pupil capacity of 3,780 (each classroom has a rated capacity of 35 pupils).

Advantages of Portable Classrooms

Portable classrooms have three main advantages compared to conventionally constructed classrooms. These are speed in construction, economy, and the possibility of moving them elsewhere when enrollment decreases make them unnecessary at their present locations.

The time needed to construct portable additions to a school is substantially less than that of conventional additions. It has proved possible to have portable additions ready for occupancy within 120 days of the contract date. For example, some additions put under contract in June 1957 were ready for use in October of the same year. This compares to a lead time of one year or more often required for conventional construction.

Economies Possible With Portables

In addition to the time saving, the use of portable schoolrooms has enabled the school district

to achieve considerable economy compared to conventional construction.

The average cost of portable additions to existing schools has been \$13,000 per classroom and \$33,000 per all-purpose room (equivalent in size to 2½ classrooms).

It is difficult to compare the cost of portable classrooms directly with classrooms of conventional construction, since the school board has made very few 4- to 6-room additions to existing schools before portable classrooms came into use in 1957. The data on larger additions indicate that \$25,000 to \$32,000 per classroom is a fair estimate of average cost for conventional construction.

Thus, the construction of 108 portable classrooms at an average cost of \$13,000 each has resulted in substantial savings when compared with the cost of constructing conventional additions of the same capacity at a probable cost ranging from \$25,000 to \$32,000 per classroom.

Moreover, should enrollments shift and the additions not be needed at their present locations, the portable classrooms could be moved to new locations, resulting in additional savings over conventionally constructed additions.

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APPORTIONMENT: A FIASCO

**Existing Conditions Point Up Need For
Adequate Standard and Remedy at Law**

The Pennsylvania Constitution prescribes certain vague standards for establishing districts from which the Senators and Representatives are elected to the Pennsylvania General Assembly. These standards are consistently and openly violated, but the Pennsylvania citizen, whose franchise is so clearly abused, has no recourse. The Constitution (supposedly the supreme law of the Commonwealth) says one thing; the General Assembly (responsible for implementing the law) does another, contrary to the law. The abused citizen is helpless. The courts shake their heads. Too bad, but "that's the way the cookie crumbles."

The law is defective, but the only way to correct the defect is to change the law; and the only way the law can be changed is through the action of those who have a vested interest in seeing that it isn't changed. Here are further examples

This is the tenth article on Philadelphia's interest in revising the Pennsylvania Constitution; the series is based on a study prepared by our organization and financed by the Thomas Skelton Harrison Foundation.

of deficiencies in the Pennsylvania Constitution which cry out for corrective action.

How these deficiencies affect apportionment of state representative and senatorial districts *within* the City of Philadelphia is described here; later articles will present this organization's specific recommendations for correcting these shortcomings.*

Provisions Versus Practices

The Constitution's standard for establishing representative districts is as stated in Article II, Section 17: "Every city entitled to more than four representatives . . . shall be divided into districts of compact and contiguous territory, *each district to elect its proportion of representatives according to its population. . . .*" (Emphasis supplied.)

Yet, this is not the way of things in Philadelphia. For example, the representative from House District No. 14 represented a 1950 population of 41,409 while the representative from District No. 29 represented 75,371. In terms of registered voters, the member from House District No. 6 represented 15,600 voters in 1958 while the member from House District No. 16 represented 50,000 voters.

According to the Constitution (Article II, Section 16), senatorial districts shall be of "compact and contiguous territory *as nearly equal in population as may be. . . .*" (Emphasis supplied.) In Philadelphia, the discrepancy between actual practice and constitutional standards is even more glaring in the case of senatorial districts than it is for house districts. The smallest of the city's

* Of the seven basic constitutional changes which this organization believes are necessary to ensure equitable representation in the General Assembly, five have been discussed in CITIZENS' BUSINESS Nos. 2,187 (September 28, 1959), 2,189 (October 26, 1959), and 2,190 (November 9, 1959).

senatorial districts (No. 3) had a 1950 population of 79,063 while the largest (No. 8) had 442,517, approximately 5½ times as many. In terms of registered voters, Senate District No. 3 had 32,300 voters in 1956 while Senate District No. 8 had 259,100—about 8 times as many. Yet, each is represented by one senator.*

Problem of Ward Boundaries

In Philadelphia, election districts (henceforth termed “divisions” to accord with popular usage) are subdivisions of wards, and wards are grouped together to form senatorial and representative districts. Therefore, devising meaningful standards for establishing equitable districts necessarily involves a look at both law and custom pertaining to wards and “divisions.”

The Pennsylvania Constitution (Article II, Section 16) stipulates that *senatorial* districts must conform to ward boundaries; *this provision does not at present preclude the establishment of eight approximately equal senatorial districts in Philadelphia.*

The Constitution contains no similar express provision requiring that *representative* districts must conform to ward boundaries; however, Philadelphia practice has been to combine only entire wards to form representative districts.

Inasmuch as the Constitution (Article VIII, Section 11) permits wards to be divided into “divisions,” it would appear possible to group these “divisions” into representative districts ignoring the ward boundaries, if necessary) which would be not only “compact and con-

* While some of this inequity may derive from past failures to reapportion at 10-year intervals, such inequities are inherent in the Constitution, which fails to provide adequate standards and sufficient venues of citizen-recourse. (It is appropriate to note here that even the Constitution were revised to the extent that the General assembly could be forced to reapportion its membership periodically, the reapportionment thus achieved would not necessarily be equitable.)

tiguous" but also reasonably equitable in terms of representation.* Unfortunately, the present wording of the Constitution is somewhat ambiguous on this point, and we are not aware of any judicial decision resolving it.

A Matter of Interpretation

If the Constitution were interpreted to mean that contiguous "divisions" within *different* wards could be grouped to form representative districts, the flexibility thus achieved would simplify the problem of providing equitable representative districts. However, if the opposite view were held—i.e., representative districts must conform to ward boundaries—the resulting rigidity would bar the application of a reasonable standard of apportionment so far as Philadelphia's representative districts are concerned.

One possible solution to this "equitable district-fixed ward boundary" dilemma would be to require a revision of ward boundaries for every apportionment. But this solution has drawbacks, some of which were noted in CB No. 2,174.

* The court of quarter sessions may divide or redivide wards into two or more election districts, or alter bounds of any election district, or form an election district out of two or more adjoining districts, or parts of districts, or consolidate adjoining election districts. The courts may act with respect to election districts on petition of registered voters in the area concerned or on petition of the Court Board of Elections. However, any such change is contingent upon approval by the voters in the affected wards.

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Philadelphia

February 22, 1960

No. 2,197

TO EVEN THE ODDS

Four Changes Needed for Equitable House and Senate Districting in Philadelphia

The previous issue* of this series pointed out that the existing apportionment of General Assembly senators and representatives within the City of Philadelphia clearly violates the constitutional mandate and that this is due in part to the failure of the Constitution to prescribe reasonable standards and to provide recourse for legal action by the citizens when the standards are violated.

It is the conclusion of this organization that the Constitution should provide such standards, a legal recourse for citizens when the standards are violated, and a method of establishing senate and house districts which will ensure that ward boundaries do not become "Chinese walls" preventing the combination of election "divisions" across ward boundaries. (As to the latter point, it should be permissible to establish a district

* CITIZENS' BUSINESS No. 2,196 (February 8, 1960).

This is the eleventh article on Philadelphia's interest in revising the Pennsylvania Constitution; the series is based on a study prepared by our organization and financed by the Thomas Kelton Harrison Foundation.

which, for example, contains an entire ward plus a portion of another ward.)

It is also necessary to provide controls over the districting to prevent excessive gerrymandering. Whether such provisions should apply to municipalities other than Philadelphia is not within the scope of this study; it is, however, appropriate to suggest that such provisions be made applicable to "cities of the first class. To provide reasonable standards and to implement their enforcement in cities of the first class the following elements are suggested:

1. *A requirement that the number of persons in the representation base* of state senatorial and representative districts in a city of the first class shall not vary by more than 15% from the established ratios; the ratios should be established by dividing the total number of persons in the city's representation base by the total number of senators or representatives, as the case may be, to be apportioned in such city.*

2. *A requirement that if any apportionment or reapportionment shall establish districts which fail to meet the prescribed standards, the court of quarter sessions (or court of equivalent jurisdiction) shall, upon petition of 2% of the registered voters of any district which fails to meet the standards, or of 2% of the city's registered voters, redistrict the city to the extent necessary to meet the constitutional standards. It may also be desirable to extend this power of petition to any city agency charged with supervising election divisions.*

3. *A modification of Article II, Section 16 (which prohibits dividing wards to establish senatorial districts) to permit the dividing of wards in cities of the first class when such division is necessary to ensure the city's equitable representation in the State Senate.*

4. *A clarification of the distinction between election divisions and wards to make clear that adjoining election divisions may be combined in establishing senatorial and representative districts which do not conform to ward boundaries.*

* The present base is the total population as determined by the decennial federal census; this organization has suggested that representation be based on the number of registered voters.

How Philadelphia Shapes Up

The application of the suggested standard—a deviation of not more than 15% from the average—to Philadelphia's present situation (on the basis of the present number of senators and representatives accorded the city, the present districting, and the number of registered voters in 1956 and 1958) shows the following results:

Representative Districts. Fewer than half of the 24 Philadelphia representatives who serve single-representative districts serve districts meeting this standard. Of the seven districts which elect more than one representative, none could be divided into districts meeting these standards. These findings indicate not that the proposed standard is unreasonable, but that the present representation is most inequitable.

Without changing existing ward boundaries, Philadelphia could be divided into 39 representative districts which would meet the suggested standard. This would require a regrouping of wards and, in some instances, dividing a ward between two districts or more.

Senatorial Districts. None of the present eight senatorial districts meets this standard. Existing wards could be combined into eight senatorial districts meeting this standard without dividing wards or combining divisions across the present ward boundaries.

Recommended Change in Constitution

To ensure equitable General Assembly representation from within the boundaries of the City of Philadelphia, the four elements noted above should be incorporated in the state Constitution by adding the following language to Article II, Section 18:

In cities of the first class, the senatorial or representative districts shall not vary in the number of

members in the representation base by more than fifteen per cent (15%) from a ratio derived by dividing the total number of persons in the city's basis of representation by the total number of Senators or Representatives, as the case may be, to be apportioned to such city. Wards may be divided into election districts and election districts may be combined as necessary to form senatorial and representative districts meeting the prescribed standard; provided, however, that no ward shall be split into, or among, two or more senatorial or representative districts unless it is clearly necessary to do so to provide senatorial or representative districts meeting the prescribed standard, and provided further that no senatorial or representative district shall contain more than one portion, consisting of one or more contiguous election districts, of a split ward. In the event that an established senatorial or representative district fails to meet the prescribed standards, the court of quarter sessions or court of equivalent jurisdiction* shall upon petition of two per cent (2%) of the registered voters of any senatorial or representative district which fails to meet the standards, or of two per cent (2%) of the total number of registered voters of the city, or upon petition of the City Board of Elections or other city agency charged with supervision of election districts, redistrict the city to meet the prescribed standards. The court shall have the power to establish such election districts as may be necessary to meet the standards.

* It is not considered desirable permanently to enshrine the name of a court in the Constitution.

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No. 2,198

'REASONABLE' STANDARDS

Constitutional Revision Could Correct Unreasonable Ward Sizes in Big Cities

One of the most insidious, but least obvious, perversions of the democratic process lies in the structure of Philadelphia wards. The pattern of registered voters and population varies among Philadelphia wards from 400 registered voters and 1,000 population in the 6th Ward to over 40,000 registered voters and 90,000 population in the 46th Ward.

The two previous issues* in this series have suggested ways to adjust for these ward inequities in establishing fair and reasonable districts as a basis for representation in the General Assembly. But even these improvements, if effected, would not resolve an outstanding abuse of democratic procedure in the representative processes. This is because formal political party organizations are built around the system of

* CITIZENS' BUSINESS Nos. 2,196 (February 8, 1960) and 2,197 (February 22, 1960).

This is the twelfth article on Philadelphia's interest in revising the Pennsylvania Constitution; the series is based on a study prepared by our organization and financed by the Thomas Skelton Harrison Foundation.

wards, and control of political party organizations in control of groups of small wards which contain only a small fraction of the city's total population. Each ward is entitled to have one representative on the city committee of each political party, thus enabling the political leaders of the 30 least populous of the city's 59 wards to dictate the policies of their respective city committees.

The General Assembly has acted in the past and may act in the future, to regulate the structure of wards. However, the present course provided by the General Assembly makes it relatively easy to add new wards, but is woefully inadequate to deal with old wards.

How Wards May Be Changed

The General Assembly has provided that new wards may be created or wards divided or combined only upon the initiative of a petition by (1) "100 qualified electors" of the ward or wards concerned or (2) Council to the court of quarter sessions, which appoints a commission of "five impartial persons" to investigate the propriety of the action petitioned for and make recommendations to the court. If the commission reports negatively, the court may then "make such order as to it shall appear just and reasonable"; but if the commission reports favorably, the court must place the matter before the voters of the ward or wards affected and is bound by the results of the vote.

Obviously, the foregoing is a highly inadequate and cumbersome method of changing ward boundaries. It is also an ineffective approach to correcting the maladjustments in ward boundaries. It is unlikely that the voters of any of the small wards would voluntarily vote to abolish their wards.

The General Assembly could remedy the situation through legislation which would provide a more efficient system for establishing ward boundaries. It has been previously suggested that the power of realigning ward boundaries might properly be provided to the people of Philadelphia through amendment of Philadelphia's Home Rule Charter.* This is not a constitutional question, however, and is not discussed further in our report.

Minimum Size For Wards

Yet, it is appropriate to suggest that it is a proper constitutional question to consider establishing a reasonable minimum size for wards in large cities. The Constitution of 1874 originally prescribed a minimum of 250 voters (though this minimum was dropped when this section was amended in 1928). Such a minimum would be unrealistic for today's concentrated areas of population with rapid transit facilities and modern media of communication.

This organization suggests that a reasonable minimum be re-established in the Constitution and that the minimum ward size be set at 10,000 registered voters in cities of over one million population. It is recognized that wards serve valuable purposes other than areas of political activity. The establishment of a minimum size for wards would not necessarily adversely affect these other activities. Election districts can continue to be formed in a variety of patterns to meet the need and convenience of voter registration and voting. Other administrative areas can continue to be established in a variety of patterns, and a realignment of wards by consolidating small wards would not upset the recording of administrative and historical data in traditional

* CITIZENS' BUSINESS No. 2,174 (January 12, 1959).

patterns to the extent that such may be desirable.

The practical effect of such an amendment, if adopted, would be to force the consolidation of 16 Philadelphia wards which now have fewer than 10,000 registered voters; 12 of these wards have fewer than 5,000. Such a standard would affect only about 27% of the city's wards and would bring them into more reasonable and rational relationship to other wards of the city.

Recommendation

To bring about a more equitable distribution of political representation among the political subdivisions of the City of Philadelphia, it is recommended that Article VIII, Section 11, be amended to add the following:

However, in cities of the first class, no ward shall contain fewer than 10,000 registered voters. Upon adoption of this amendment, the General Assembly shall provide by law for a consolidation or combination with adjacent wards of all wards which fail to meet this standard. In the absence of such legislation, the court of quarter sessions or court of equivalent jurisdiction shall, upon petition of two per cent (2%) of the registered voters of any ward so affected, or of two per cent (2%) of the registered voters of the entire city, or upon petition of the legislative body of such city, establish by decree, subject to judicial review as to propriety, but without requiring an affirmative vote of the voters of any ward or wards affected, new ward boundaries consistent with the minimum standard prescribed by this Constitution.

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No. 2,199

SMALL COMFORT

**These Are Some of the Techniques Used in
Deciding How the Tax Dollar Will Be Spent**

*Editorial Note: We found it refreshing to discover amidst today's torrents of portentous words, written and spoken, on fiscal affairs these twinklingly perceptive comments on governmental "getting and spending" contained in a recent address by Paul N. Ylvisaker.**

Wants will always outstrip the resources available to satisfy them. So let's consider the classic situation of hard choice which must always apply, no matter what the level of wealth, taxation and expenditures, and which planners must always face; and then list a few of the peculiar, perhaps primitive, ways in which we presently resolve the dilemma.

Assume one dollar of available revenue and three competing claims upon it. (A conservative ratio, I think you'll agree, and a situation which even Socialists find they have to live with.) What known techniques do we have for making the

* Mr. Ylvisaker is Program Director, Public Affairs Division, Ford Foundation. In 1954-1955, he was Secretary to former Mayor Joseph S. Clark and previous to that was Associate Professor at Swarthmore College.

choice, for performing what is the essential function of the planner and/or politician? Here's a sample list compiled with good humor if not 100% accuracy from current governmental practice:

- **Raise two more dollars by increasing taxes.** Actually, this isn't quite cricket and it's used much less frequently than you might think. Even those brave souls who try it find (a) it usually can be pulled off only once, in the first year after election; (b) the two new dollars create six new claims upon them faster than a new highway generates additional traffic.

- *Analyze the three claims to find out (a) what party they belong to; (b) how many votes they command; (c) whether they contributed to your administration's last campaign; (d) how loud they can holler.*

- **Create more units of government, on the assumption that taxpayers, like crows, can't count past three how many hunters are after them.**

- *Decide that two of the claims represent maintenance or replacement charges that can be safely deferred.*

- **Borrow the other two dollars and let the next administration worry about paying them back.**

- *Refer the other two claims to another unit or level of government, adding loudly enough for the taxpayer to hear that it's really the other fellow's responsibility and he's neglected it shamefully and for too long.*

- **Or alternately, claim you could manage all three expenditures if only the other level of government weren't short-changing you on taxes and grants-in-aid. The trouble with this one is that you may be taken seriously, and next year find yourself with more revenues and full responsibility.**

- *Return government to private industry, because as we all know private dollars go three times as far as public dollars.*

- **Set yourself up as a special district or authority, and ignore whichever two claims don't repay your expenditure plus a 6% return.**

- *Set yourself up as a suburb and zone two of the claims out of your jurisdiction.*

- **Forget the business of having people as constituents—they always demand too much anyway—and go out and get yourself some industry.**

Two Reports Now Available

Copies of two of our recent reports may now be obtained from our Philadelphia office:

- *Montgomery County Financial Analysis, 1956-1959 (61 pages, \$1).*
- *Philadelphia's Four-Year Budgeting: The Projected Pattern, 1957-1960, As Compared With Experience (27 pages, \$1.50).*

Single copies are available without charge to our members.

● *Appoint a commission to study the three claims, and instruct them to report after you've submitted your next budget—or better yet, after you've succeeded in finding a better job or getting elected to higher office.*

● *Put the whole mess to a referendum vote.*

● *Spread the three claims over three years, hoping an election doesn't intervene.*

● *Make the expenditure which is most visible (like freshly-painted fire hydrants or new roads and buildings) and comes closest to the traditional virtues of brotherhood, godliness, and equal opportunity for all.*

● *Adopt a moralistic attitude, condemning any two of the claims as outrageous raids on the public treasury, lags on the economy, or beginning steps on the certain road to socialism. Do not look backward to your own campaign speeches or planning reports for a line of defense: you'll only be embarrassed to remember you've promised all three things at one time or another.*

● *Underestimate your revenues, and at the end of the year pay what extras you can out of the delightfully unexpected surplus.*

● *Keep tax rates as they are, and hope for the economy and your tax base to grow three dollars where only one grew before.*

● *Adopt the wisdom of Solomon, cut the dollar into three equal parts, and forget the question of who really deserved it. Actually, this is a second-year man's approach: a first-year man would actually worry about the question, and a really old pro would long ago have decided time solves more problems than governmental expenditures, and the estimates were probably padded anyway.*

• *Throw out a trial balloon, spend 50 cents, and then consult tomorrow's editorials to see how you should spend the rest.*

• *Incorporate two of the claims into the fifth year of the capital budget, and give yourself time to think and maneuver.*

• *Take two dollars out of reserves, making sure first that a predecessor or two had established this as fair precedent.*

• *Hire an economist to calculate the marginal utility of each of the three alternative ways of spending the dollar, making certain (a) that his findings agree with your preferences and political calculations; (b) that his computations are so complicated that any taxpayer would give up and admit they were fair.*

• *Ditto, asking your economist to compute relative costs and benefits. Ditto, to see whether it corresponds to the master plan.*

• *Face it, it's a losing game, quit the public service, and join the rest of us who are doing the claiming. It's a lot more fun, you can spend a lot more money, and as long as it's on private account nobody these days is asking any of these hard questions.*

As the author of the foregoing list took care to mention, improving these techniques depends upon the introduction of some basic changes in governmental policies and practices, fiscal and otherwise. For example, attention is specifically directed to the need for (1) broadening and diversifying the tax base, (2) sharing of revenues and services, and (3) long-range economic and social planning.

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COMPETITIVE BIDS FOR AUTHORITY BONDS BECOME FASHIONABLE

Since Pennsylvania governments embarked on widespread use of "authorities"* a little over a decade ago, it has been customary for a large majority of authority bonds to be placed at privately negotiated sales.

Marketing Was Uphill Work

When authority bonds were new, or relatively so, they required special sales promotion by the investment bankers to secure acceptance by the ultimate investor, a condition which helped to push interest rates up to rather high levels. The increased interest costs were due in part to the lower grade (higher risk) nature of these debentures, in part to the higher cost of marketing them, and in part to unfamiliarity with, and

* An authority is a public corporation directed by an appointive board. It is created to undertake the planning, financing, construction and, in some instances, to operate one or more public activities which produce revenues. Although established by government, it is outside, in one respect or another, what is considered the normal structure of government. Ordinarily, the debt of an authority does not directly involve the full faith and credit of the parent government or governments.

lack of widespread acceptance of, authority financing.

In the earlier days, it is doubtful that a public offering of authority bonds would have been attractive enough to investment banking houses to have aroused any real competition among them.

Competition Now Available

Today, the justification for the privately negotiated sale is greatly reduced.

The authority bond is now well known. In more and more instances, adequate competitive bidding can be secured if the members of the authority proceed with that objective in mind.

Illustrative of this new financial climate is the recent experience of the Tredyffrin Township Municipal Authority. A bond issue to finance sewer improvements had been under consideration for a number of years. At the time the Authority was created, many township officials believed that a private sale was the only practicable method of disposing of the bonds and no real competition would be forthcoming if the bonds were offered at a public sale.

The Authority board members, however, after consultation with the Pennsylvania Economy League, took a courageous step and decided to try the competitive market. The results have vindicated their judgment. At this sale, four syndicates, composed of a total of 41 investment banking firms, bid on the \$2,200,000 bond issue.

More Examples of Public Sales

Recently, a number of other authorities also have been successful in using public sales to

A Matter of \$1.1 Billion Plus

When the most recent tally was published,* Pennsylvania's municipal authorities numbered 1,194 and the total amount of bonds issued by them amounted to \$1.1 billion (excluding housing and redevelopment authorities and their debt); at present, municipal authorities in this state are issuing bonds at a rate exceeding \$100 million annually.

More than half (\$672.7 million) of the total has been issued by school authorities, and the pattern promises to continue. Since public schools are certainly not "revenue-producing facilities" within the commercially-accepted sense of the term, the funds for the principal and interest payments on the authority bonds must be derived by the levy of school taxes or from state subsidies. Obviously, it is to the advantage of the taxpayers to have all authority bonds, especially school bonds, carry the lowest possible interest rate, since a difference of even a fraction of a percentage point can mean a substantial difference in dollars.

* Pennsylvania Municipal Authorities (January 1959), Bureau of Statistics, Department of Internal Affairs.

market their bonds. Among these authorities are the following (with amounts of bond issues; number of bids received; and number of investment houses involved in bidding):

- Marple - Newtown Joint School Authority (\$2,110,000 bond issue; 4 bids received; 36 firms bidding).

- Harrisburg School Building Authority (\$3,000,000 bond issue; 4 bids received; 38 firms bidding).
- Haverford Township School Authority (\$510,000 bond issue; 10 bids received; 32 firms bidding).
- Steelton Borough Municipal Authority (\$1,030,000 bond issue; 6 bids received; 30 firms bidding).

In most circumstances, the advantages of a public sale over a private one are obvious. They include:

- Ordinarily, the best price is obtained, and the price is established in the traditional manner of the market place. The differences of opinion among specialists with long experience in the bond field as to the worth of a given set of bonds are manifested by the rather wide range of interest costs in each bidding. Many factors account for these differences in judgment. They include the degree of commitment of the syndicate to other issues at the time, the availability of customers for authority bonds, and differences of opinion as to the risk involved in a specific transaction.
- Authority members are safe from allegations of favoritism in the choice of bidders to be admitted to private sales.
- The community is assured of being fully advised well in advance of the authority's plans for incurring debt.

Private Sales Sometimes Appropriate

The foregoing should not be interpreted to suggest that the private sale is always inappropriate. Private sales are sometimes warranted. Normally, the circumstances warranting private sales include one or more of the following:

- The issue is small, and the expense of public sale is not warranted.
- The issuing authority is not well known. Therefore, an offer at a public sale, without adequate promotion, may not produce adequate competition.
- The credit lying behind the bonds may be exceptionally thin, with consequent high risks for the investor.

Authority Bonds Have Appeal

The PEL has compiled from The Weekly Bond Buyer a list of the firms that were active in bidding for the bonds sold at public sales by the five authorities mentioned in this article. This list clearly indicates that a large number of both local and national investment banking firms are willing to consider placing bids on authority bonds.

Arthurs, Lestrangle & Co.	Janney, Dulles & Battles, Inc.
Bache & Co.	Kidder, Peabody & Co.
Bioren Co.	A. E. Masten & Co.
Blair & Co., Inc.	McJunkin, Patton & Co.
J. C. Bradford & Co.	McKelvy & Co.
Butcher & Sherrerd	Merrill Lynch, Pierce, Fenner & Smith
Blair F. Claybough & Co.	W. H. Newbold's Son & Co.
Cunningham, Schmertz & Co.	Paine, Webber, Jackson & Curtis
Dean Witter & Co.	Penington, Colket & Co.
De Haven & Townsend, Crouter & Bodine	Poole & Co.
Dolphin & Co.	R. W. Pressprich & Co.
A. Webster Dougherty & Co.	Rambo, Close & Kerner
Drexel & Company	Reynolds & Co.
Francis I. du Pont & Co.	Schaffer, Necker & Co.
Eastman Dillon, Union Securities & Co.	Schmidt, Roberts & Parke
Elkins, Morris, Stokes & Co.	Singer, Deane & Scribner
Fahnestock & Co.	Smith, Barney & Co.
First Boston Corp.	J. W. Sparks & Co.
M. M. Freeman & Co.	H. J. Steele & Co.
Goldman, Sachs & Co.	Stone & Webster Securities Corp.
Hallowell, Sulzberger, Jenks, Kirkland & Co.	Stroud & Co.
Halsey, Stuart & Co.	Suplee, Yeatman, Mosley & Co.
Harriman, Ripley & Co.	Thomas & Co.
Harrison & Co.	B. J. Van Ingen & Co.
Ira Haupt & Co.	White, Weld & Co.
Hemphill, Noyes & Co.	Woodcock, Moyer, Fricke & French
Hess, Grant & Remington	Arthur L. Wright & Co.
Hornblower & Weeks	Yarnall, Biddle & Co.
W. E. Hutton & Co.	

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No. 2,201

A NEW JUDICIAL SYSTEM

Constitution Should Provide or Permit The State A Modern Judicial System

There is probably no article of the Pennsylvania Constitution which has had more persistent criticism—criticism offered with so much unanimity in principle by so many competent, impartial critics and resulting in so little corrective action—than the Judiciary Article (Article 7).

Repeating a Widely-Held Opinion

The most general criticism of the state's constitutional provisions for the judiciary is that most of these provisions do not belong in the Constitution at all, but concern areas which should be left to statute. This opinion was stated in a 1920 issue of CITIZENS' BUSINESS, was repeated in 1958, and since it appears equally valid today, is reiterated here to serve as a fundamental reference point in evaluation of the Judiciary Article. (See box on page 3.)

This is the thirteenth article on Philadelphia's interest in revising the Pennsylvania Constitution; the series is based on study prepared by our organization and financed by the Thomas Skelton Harrison Foundation.

The Judiciary Article contains 27 sections, many of which are in themselves detailed and cumbersome; in terms of number of sections and sheer verbiage, the Judiciary Article is exceeded only by Article III (Legislation).

In contrast, the Judiciary Article of the Federal Constitution consists of only three sections, two of which define the jurisdiction of the Federal Courts, guarantee the right of trial by jury in criminal cases, and define and prescribe the punishment for treason. The organization and administration of the judicial system are left for Congress to determine; that grant of power is contained in one simple sentence:

The Judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

To provide a proper constitutional framework for a judicial system, this organization suggests that the present Judiciary Article (Article V) should be repealed in its entirety and a new Article V should be adopted which would contain a new Section 1 to read substantially as follows:

The judicial power of this Commonwealth shall be vested in a Supreme Court and such inferior courts as the General Assembly may from time to time establish. Until the General Assembly shall otherwise provide, the judicial system shall continue under the organization and laws existing at the time of this amendment.

Modern Principles for Judicial System

It may also be desirable to add to the new article a provision stating a few broad principles with respect to jurisdiction, qualifications of judges, methods of selection, impeachment, retirement, restriction to judicial duties. At no point should the new article extend to such

This Is Still Our Opinion

*Human wisdom cannot foresee the grave questions that are bound to arise in our complex civilization in the period during which we may reasonably expect our new Constitution to be in force. When once adopted, experience has proved that amendment is exceedingly difficult. We must have a judicial system capable of growth and adjustment. . . . The Constitution should contain only the broad outline of the judicial plan, stated in most general terms, with full authority given to the legislature to make all details for that plan.**

* Appeared first in CITIZENS' BUSINESS No. 404 (February 19, 1920); repeated in No. 2,164 (June 9, 1958).

minute detail as is embodied in the present provisions, which itemize the various courts, their officers, and administrative details of their operation.

Philadelphia's Special Interest

In any event, whether revision of the Judiciary Article is accomplished by the amendment process or by a broad-scale revision, as suggested above, some attention needs to be given to the content of four sections of the Judiciary Article which treat specially of Philadelphia, and to another which, though of general nature, has a special effect on Philadelphia by reason of its conflict with the Home Rule Charter provisions.

These sections* and others which, because of their general application, have significant effect on the judicial system within the City of Philadelphia merit and will receive separate descrip-

* Article V, Sections 6, 7, 8, 12, and 22.

tion. This description of these provisions and their impact will be incorporated in several forthcoming articles focused primarily on the following elements of a modern judicial system:

- The appointment, rather than partisan election, of judges from a list submitted by a judicial commission which, it is hoped, will be politically impartial.

- A coordinated and uniform system of judicial administration embracing all of the courts in Philadelphia, including the magistrates' courts.

- Elimination from the Constitution of unnecessary description of administrative officers of the courts; the double purpose here would be to make possible a more effective organization of a unified administrative system in the Philadelphia judiciary and to eliminate conflicts with the Home Rule Charter.

- Further implementation of the principle of separation of powers by safeguarding the right of the judiciary to be relieved from the burden and political pressures involved in having imposed upon it non-judicial responsibilities.

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NOT EXCLUSIVELY URBAN

**With Certain Cautions, Some Comparisons
Are Based on State's Criminal Court Data**

That "crime is not exclusively a phenomenon of the larger urban and metropolitan counties" is one of the conclusions which the state's Bureau of Correction is willing to draw from the data presented in its report, *Pennsylvania Judicial Statistics (1958)*. Various comparisons offered here between Philadelphia and other counties of the state seem to uphold this view, even after making allowances for differences in judicial procedure and other distorting factors, such as "backlogs" of defendants in some areas.

Not the Whole Story

The Bureau of Correction report deals with defendants disposed of by Pennsylvania's Courts of Quarter Sessions of the Peace and Courts of Oyer and Terminer and General Jail Delivery; these courts, which usually sit as one, try only criminal cases. *Inasmuch as other courts, such as Philadelphia's Municipal Court, have either concurrent or exclusive jurisdiction over certain criminal cases, the data presented here are not,*

and do not purport to be, a complete picture of criminal court dispositions.

(For a brief description of Philadelphia's various civil and criminal courts, see *Philadelphia Government—1956*, published by this organization.)

Defendants Processed

During 1958, the Courts of Quarter Sessions in Pennsylvania's 67 counties disposed of cases involving 43,447 defendants. Philadelphia's Quarter Sessions Courts disposed of 12,111 of these defendants. Thus, Philadelphia, which has 19% of the state's civilian population, processed 28% of the total number of defendants.*

Viewing these statistics somewhat differently, it may be seen that in the state as a whole, the Quarter Sessions Courts disposed of 391 defendants for each 100,000 of the civilian population; in Philadelphia, 575 defendants were processed for each 100,000 of the city's civilian population.

City Ranks Seventh

Interestingly, and probably in contradiction to popular belief, Philadelphia ranked seventh in number of defendants processed:

County (Rank in civilian population)	Defendants processed per 100,000 population
Dauphin (14th)	793
York (13th)	716
Adams (42d)	692
Fulton (63d)	622
Huntingdon (49th)	621
Greene (46th)	605
Philadelphia (1st)	575
Luzerne (5th)	509
Cameron (65th)	502
Somerset (33d)	499

* Civilian population estimates are those of the Pennsylvania State Planning Board as of July 1, 1958.

Procedural Outcome

Statewide, most (71%) of the defendants were convicted and sentenced:*

Disposition	No. (%)
Convicted and sentenced	30,871 (71%)
Not convicted	
Dismissed	6,729 (16%)†
Acquitted	4,807 (11%)
Other no-penalty actions	1,040 (2%)‡
Total	43,447 (100%)

In Philadelphia, 67% of the defendants were convicted and sentenced; these (8,079) represented 26% of the state total of convictions.

For each 100,000 of the state's civilian population, 278 defendants were convicted and sentenced in 1958. It is interesting to note that Philadelphia ranks tenth among the 67 counties when the number of defendants sentenced in Quarter Sessions Courts is considered with relation to county population:

County (Rank in civilian population)	Defendants sentenced per 100,000 population
Dauphin (14th)	693
York (13th)	577
Fulton (63d)	562
Adams (42d)	544
Mifflin (45th)	496
Huntingdon (49th)	496
Greene (46th)	457
Luzerne (5th)	433
Cameron (65th)	395
Philadelphia (1st)	383

* Includes only defendants convicted and sentenced during the calendar year.

† "Dismissals" include outright dismissals, nolle prossed defendants, and those whose cases were permanently dismissed from the court calendar; "other no-penalty actions" include defendants declared insane (whether convicted or not), those whose bail was forfeited, and any others for whom a final action was taken that terminated the court proceedings without penalty.

Sentence or Treatment

The type of sentence or treatment administered the 30,871 defendants convicted in Pennsylvania Quarter Sessions Courts during 1958 reveals some interesting patterns. For example, 36%* of those convicted were confined to penal or correctional institutions;† 31% were either put on probation or received suspended sentences; 23% were directed to pay fines and/or costs; and the remaining 10% received "other sentences" (counselling, treatment, etc.).

As would be expected, the sentences meted out to those convicted of serious crimes ("Part I Offenses") differ considerably from those imposed for less serious crimes ("Part II Offenses"):

Sentence	"Part I"	"Part II"
	No. (%)	No. (%)
Imprisonment	5,253 (60%)	5,871 (27%)
Probation, etc.	2,966 (34%)	6,481 (29%)
Fines or costs	455 (5%)	6,598 (30%)
Other	52 (1%)	3,195 (14%)
Total	8,726 (100%)	22,145 (100%)

A comparison of sentences handed down in 1958 suggests that a Quarter Sessions Court conviction in Philadelphia is more likely to mean loss of freedom than it does in the rest of the state:

Sentence	Philadelphia	Other counties
	No. (%)	No. (%)
Imprisonment	3,582 (44%)	7,542 (33%)
Probation, etc.	3,123 (39%)	6,324 (28%)
Fines or costs	1,371 (17%)	5,682 (25%)
Other	3 ‡	3,244 (14%)
Total	8,079 (100%)	22,792 (100%)

* Includes two persons sentenced to death.

† Includes state prisons and reformatories, county prisons and jails, and institutions for juvenile delinquents.

‡ Less than .1%.

Some Further Slants

A majority—64%—of the 30,871 defendants convicted and sentenced in Pennsylvania's Quarter Sessions Courts had entered guilty pleas. Comparing Philadelphia and a composite average for the other 66 counties, we find a lesser percentage (55%) of guilty pleas in Philadelphia than in the other counties (68%).

A total of 15,863 defendants claimed to be innocent of charges brought against them in Quarter Sessions Courts; 70% of this group were convicted.

The Philadelphia rate of convictions of those pleading innocent was lower than the average for the rest of the state:

	Philadelphia No. (%)	Other counties No. (%)
Convicted	3,677 (62%)	7,379 (75%)
Acquitted	2,304 (38%)	2,503 (25%)
Total	5,981 (100%)	9,882 (100%)

Apparently, a defendant tried in this state's Quarter Sessions Courts has a better chance of being acquitted if his trial is held before a jury.* In 1958, 52% of those so tried were convicted. The rate of convictions was much higher—73% of those tried—when the court made determinations of guilt or innocence.

For court-decided cases, the Philadelphia rate of convictions was lower than the average for the rest of the state:

	Philadelphia No. (%)	Other counties No. (%)
Tried by court		
Convicted	3,318 (62%)	6,502 (80%)
Acquitted	2,050 (38%)	1,598 (20%)
Total	5,368 (100%)	8,100 (100%)

* Only 6% of all Quarter Sessions Court defendants in Pennsylvania were tried by jury in 1958; in Philadelphia, only 5% were so tried.

Conversely, of the defendants tried before juries, the percentage of convictions was somewhat higher in Philadelphia:

	Philadelphia No. (%)	Other counties No. (%)
Tried by jury		
Convicted	359 (59%)	877 (49%)
Acquitted	254 (41%)	905 (51%)
Total	613 (100%)	1,782 (100%)

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Philadelphia

May 23, 1960

No. 2,203

BACKGROUND FOR DECISION

The City of Philadelphia has under active consideration a proposal for the execution of a modified form of union shop contract between the city and District Council 33, American Federation of State, County and Municipal Employees, AFL-CIO, Philadelphia and Vicinity.

As ordinarily defined, a "union shop" is one in which all employees are required to become union members within a specified period after they are hired. Apparently, the arrangement now being discussed would grant somewhat less extensive rights to District Council 33.

However, the fundamental decision now to be made is not *which type of union shop* the city government should authorize, but *whether there should be a union shop* of any kind for employees of the municipal government. Whichever way this question may be resolved, its importance is basic.

This is the first of three articles on the union shop proposal; the current article is generally descriptive, and the forthcoming issues in this series will discuss the advantages and disadvantages of such a contract.

The Pennsylvania Economy League and its affiliate, the Bureau of Municipal Research, express no recommendation as to the action which the city should pursue in this matter. However, the issue has been brought up publicly by the Mayor and others; therefore, it is appropriate to place before the public and before public officials a statement of the pertinent facts and considerations which constitute the background for decision.

Present Status of Employee Unions

Most jurisdictions in the United States today do permit employees to belong to unions chosen by the employees. However, relatively few jurisdictions give formal recognition to any union, engage in formal negotiations, or enter into formal contracts. A survey of practices in a number of major cities was made about three years ago, and that survey failed to reveal any extensive pattern of formal recognition and written contractual arrangements.

Philadelphia, however, has engaged in formal negotiations with employee unions for a number of years and, in the case of District Council 33, has entered into a formal contract annually for more than a decade. Although the city negotiates with the unions representing the firemen and policemen, it has never consummated formal contracts with their organizations.

City's Four Major Unions

Today, there are four major unions of Philadelphia municipal employees. Each of the four is described briefly below:

City Fire Fighters' Association, Local No. 22. This union is affiliated with The International Association of Fire Fighters, the latter being a national union historically affiliated with the American Federation of Labor. Membership in this union is generally restricted to the

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- Dept. of Streets
- Recreation (3 ag
- Phila. Prisons
- Public Property
- Riverview . . .
- Board of Trade
- Phila. General H
- Registration Com
- Water Dept. .

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uniformed personnel of the Fire Department, the only exception arising from the provision that certain disabled firemen, placed at work in other departments, be permitted to continue as members.

The union enjoys wide support from those fire fighters eligible for membership. The numerical strength of the Fire Fighters' Association has varied in recent years from a high of 2,815 in 1953 to a low of 2,136 in 1960. As indicated by payroll deductions of union dues in January of each year, the membership has been as follows:

1953	2,815
1954	2,612
1955	2,357
1956	2,287
1957	2,311
1958	2,306
1959	2,166
1960	2,136

The sharp decrease from 1953 to 1955 was due largely to the city's adopting regulations prohibiting membership by officers.

Basically, the decline in union membership since 1955 is a reflection of the downward trend in employment of uniformed personnel in the Fire Department.

The present dues for members of the Fire Fighters' Association are \$3 per month, and the payroll records indicate that in 1959, approximately \$78,000 was deducted by the city, upon individual employee authorization, for remittance to the union.

Fire Officers' Association. Membership in the Fire Officers' Association is restricted to personnel at or above the position of "Fire Lieutenant." Approximately 90% of the 496 Fire Department officers, or 446, are members. Payroll deductions covering dues vary according to the insurance carried by each individual.

Fraternal Order of Police, Lodge No. 5. The Fraternal Order of Police is an independent national union which is not affiliated with either the AFL or the CIO. The union has been in existence for several decades and has enjoyed substantial support from the city's police forces, including those in the Police Department and the park guards employed by the Fairmount Park Commission. As indicated by payroll deductions of union dues in January of each year, FOP membership has been as follows:

1953	4,032
1954	4,212
1955	4,548
1956	4,644
1957	4,927
1958	5,321
1959	5,495
1960	5,530

The present dues for FOP members are \$1.50 per month, and the payroll records indicate that in 1959, approximately \$100,000 was deducted by the city, upon individual employee authorization, and paid over to the union.

District Council 33, American Federation of State, County and Municipal Employees, AFL-CIO, Philadelphia and Vicinity. This union, succeeding an independent group which became an AFL local, was organized some years ago. In 1957, this union became the exclusive bargaining agent for those city agencies in which its members comprised a majority of the civilian employees. A year later, the contract was amended to grant the union exclusive bargaining rights for "all civil service employees of the City of Philadelphia, with the exception of supervisors . . . and uniformed and investigatory personnel in the Police Department, Fire Department, Fairmount Park Commission and the District Attorney's Office." With the signing of the 1957 contract between the city and District Council 33, another union—a CIO affiliate, to which a substantial number of city employees belonged—ceased to be recognized as a bargaining agent and, of course, for dues deduction purposes.*

On the basis of payroll deductions of union dues each January, 1953–1956 membership in the two unions and 1957–1960 membership in the one union have been:

	AFL	CIO	Total
1953	7,431	1,420	8,851
1954	8,609	1,246	9,855
1955	9,613	1,418	11,031
1956	9,653	1,308	10,961
1957	10,417	—	10,417
1958	10,317	—	10,317
1959	10,293	—	10,293
1960	10,158	—	10,158

* If any employees of the city have continued as members of a CIO union, this is not reflected through dues checkoffs.

As the table shows, AFL membership rose from 7,431 in 1953 to a high of 10,417 in 1957 and has decreased only slightly in the past three years. The rise in AFL membership corresponded to the rise in municipal employment between 1953 and 1957 and was somewhat affected by the fact that the CIO union was no longer in the picture.

District Council 33's dues rate at this time is \$1.50 per pay period (approximately \$39 per annum, depending upon the number of pay periods). For the year 1959, total dues deducted from municipal employees' earnings, upon individual authorization of each employee who is a member of the union, amounted to approximately \$410,000.

Union Membership

In January 1960, the government of the City of Philadelphia issued paychecks to 28,587 employees (including 27,519 permanent, full-time employees and 1,068 others classified as part-time, temporary or seasonal). Union dues were checked off for 18,270 employees; the remaining 10,317 employees had not authorized the city to withhold union dues.

Continuing the analysis of these January 1960 payrolls, it becomes apparent that union membership is more prevalent among the uniformed forces than among the civilian employees:

	No. of employees	Union members No. (%)
Uniformed	9,184	8,112 (88.3%)
Civilian	19,403	10,158 (52.4%)
TOTAL	28,587	18,270 (63.9%)

If part-time, temporary, and seasonal workers are excluded from both groups of employees, the percentages change somewhat:

	No. of employees	Union members No. (%)
Uniformed	8,519	8,112 (95.2%)
Civilian	19,000	10,158 (53.5%)
TOTAL	27,519	18,270 (66.4%)

Distribution of 33's Membership

The current proposal to establish a union shop relates solely to the civilian employees of the city government. Primarily for this reason, the term "employees"—as used throughout the rest of this discussion—comprehends *civilian personnel employed on a permanent, full-time basis.*

The 19,000 permanent, full-time, civilian employees on the city's payroll early in 1960 were distributed among 62 municipal agencies. At that time, the 10,158 members of District Council 33 were distributed among 45 of these agencies. It is appropriate to note that the union's membership was then—and probably still continues to be—concentrated largely in a relatively few agencies, albeit some of these are very large in terms of personnel employed.

50% or more. In the nine agencies or clusters of agencies listed in Table 1, District Council 33 had 50% or more of the employees enrolled as members.

Table 1

50% OR MORE OF CIVILIAN EMPLOYEES
BELONG TO DISTRICT COUNCIL 33

Agency or function	Civilian employees	Union members No.	%
Dept. of Streets	4,435	4,069	91.7%
Recreation (3 agencies)	1,348	1,083	80.3%
Phila. Prisons	580	455	78.4%
Public Property (3 agencies)	966	704	72.9%
Riverview	168	108	64.3%
Board of Trade & Conventions	135	85	63.0%
Phila. General Hospital	2,369	1,446	61.0%
Registration Commission	107	64	59.8%
Water Dept.	1,639	956	58.3%
TOTAL	11,747	8,970	76.4%

These agencies, with 62% of the city's civilian personnel complement, had 88% of the members of District Council 33.

Table 2

FEWER THAN 50% OF CIVILIAN EMPLOYEES
BELONG TO DISTRICT COUNCIL 33

Agency or function	Civilian employees	Union members No.	%
Fire Dept.	71	35	49.3%
Dept. of Commerce	259	113	43.6%
Dept. of Collections	874	337	38.6%
Fair Rent Committee*	3	1	33.3%
Police Dept.	522	170	32.6%
Procurement Dept.	111	34	30.6%
Board of Pensions & Retirement	10	3	30.0%
Dept. of Public Welfare	350	98	28.0%
Licenses & inspections (4 agencies)	431	109	25.3%
City Treasurer	17	3	17.6%
Civil Defense	12	2	16.7%
Board of Revision of Taxes	161	24	14.9%
Free Library	709	102	14.4%
City Commissioners	156	20	12.8%
Sheriff	160	20	12.5%
Information & Complaints*	10	1	10.0%
Dept. of Public Health	772	59	7.6%
Development Coordinator	14	1	7.1%
Director of Finance	164	11	6.7%
City Representative	33	2	6.1%
District Attorney	139	8	5.8%
Dept. of Records	118	6	5.1%
Youth Study Center	143	7	4.9%
City Planning Commission	64	2	3.1%
Auditing Dept.	70	2	2.9%
Personnel Director	106	3	2.8%
Clerk of Quarter Sessions	122	3	2.5%
Law Dept.	108	2	1.9%
Register of Wills*	56	1	1.8%
Board of Magistrates*	297	2	0.7%
Municipal Court*	560	4	0.7%
TOTAL	6,622	1,185	17.9%

* No employees under civil service.

Fewer than 50%. Union membership ranged from 0.7% to 49.3% of the employees in the 31 agencies or groups of agencies listed in Table 2.

These agencies, with 35% of the city's civilian labor forces on their payrolls, had approximately 12% of the union's members.

No union members. In January of this year, there were 15 agencies in which District Council 33 had no members. Civilian employment in this group totaled 631, or 3% of the city's work force (see Table 3).

Table 3

15 AGENCIES IN WHICH DISTRICT
COUNCIL 33 HAS NO MEMBERS

Agency	Employees
Council*	72
Mayor's Office*	13
Managing Director	36
UTTB	5
Camp William Penn*	2
Betsy Ross House	7
Tax Review Board	7
Sinking Fund Commission*	1
Civil Service Commission	6
Commission on Human Relations	28
Prothonotary*	113
Courts (Common Pleas, Quarter Sessions, Orphans, and Supreme and Superior)*	341
TOTAL	631

* No employees under civil service.

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June 13, 1960

No. 2,204

SOME ARGUMENTS OFTEN ADVANCED TO FURTHER UNION SHOP CONCEPT

There are many factors which require consideration in coming to a conclusion as to whether the execution of a union shop contract between the City of Philadelphia and District Council 33 would be in the public interest. Among the principal arguments advanced in favor of the union shop are the following:

Union recruitment. Regardless of the rules which may be established seeking to govern union recruitment activities, it is inevitable that so long as membership in the union is optional, some recruitment will take place during working hours on time being paid for by the city. If a union shop contract were to be executed, this loss of time would presumably be diminished appreciably.

Accounting costs. Under the existing contract with District Council 33, the city government withholds union dues from its employees' pay-

This is the second of three articles on the union shop proposal now under discussion between officials of the City of Philadelphia and District Council 33.

checks. However, since union membership is optional, each employee who joins or quits the union is required to execute individually the authorizations which are necessary before the city can start or discontinue dues deductions. These authorization forms must be processed by the personnel and payroll units in the employing agency and in the central agencies as well. Under a union shop, dues deductions would be made "automatically," and the extra costs arising from handling these transactions on an individual basis would be eliminated.

Fairness among employees. It is frequently contended, and has been so held by District Council 33 during the current negotiations, that a universal requirement for union membership is the only feasible means of eliminating "free loaders." In labor parlance, "free loaders" are those non-union employees who benefit from gains achieved by a union (e.g., additional fringe benefits, improved working conditions, higher salaries) even though they do not support the union financially or otherwise.

The conditions under which District Council 33 and the city carry on their contract negotiations are such as to becloud substantially the degree to which this argument is valid.

Stability of employee-employer relations. When membership is at the option of the employee, there is always a possibility that the union's strength will fall below the level necessary to warrant the employer's continuing to recognize the union as the sole bargaining agent. Whether the membership wanes because of normal attrition, competition by other unions, weak recruiting efforts, or other reasons, the threat to the union's position is a constant one. The usual remedy is to provide some form of

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Single copies are available to our members without charge.

"union security" by means of either a union shop contract or a maintenance of membership contract.* It is frequently argued, and with considerable force, that this security enables the union to function more effectively—generally, to the over-all betterment of employee-employer relations—and also pays dividends to the employer in the form of improved work performance.

District Council 33 now has enrolled as members approximately 54% of the permanent, full-time, civilian employees on the Philadelphia municipal payroll. Not only is the membership in this union no longer increasing, but after having been more or less constant for a few years, it has of late shown a modest tendency to decline. The relationships between the city and District Council 33 have, according to statements of many municipal officials, been generally of a satisfactory character, particularly during the past 10 years. This state of affairs is said to be due in part to the union's admittedly good work

in informing its members of—and gaining their acceptance of—changes in work rules, policy decisions on pay scales, pensions, and the like. Any increase in the union's membership would permit more extensive use of these techniques.

Therefore, many people believe that the next logical step for the city government is to provide security for District Council 33 by means of a union shop contract, with the ultimate expectation of improved performance of municipal functions as a result of broadening the scope of the union's efforts. In this view, the authorization of a union shop would, at the very least, insure the continuance of present, apparently satisfactory relations between the city and District Council 33.

Uniform treatment for employees. So long as some employees of the city are union members and some are not, it will be difficult or even impossible to achieve uniformity in certain aspects of personnel administration; also, even where there are no variations in the treatment accorded employees, variations are apt to be imputed. In the following respects, the institution of a union shop would be helpful in creating an atmosphere more conducive to effective performance of the city's business:

- The potentialities do exist for real or fancied favoritism or unfair discrimination between union and non-union employees, particularly in agencies where the union members are aggressively pro-union. If all employees were placed on an obviously equal footing via a union shop contract, the existing clannishness of the union and non-union groups—as well as the resulting disgruntlement—would eventually disappear.

- Members of the union are entitled to union representation in appeals from disciplinary actions at departmental and Civil Service Commission levels. Such representation would be accorded to many more

* A third form of union security—the closed shop—was outlawed by the Taft-Hartley Act.

employees if a union shop contract were to be executed.

• Similarly, union members' grievances are handled for them by the union; a union shop contract would offer presently non-union employees the opportunity to take grievances to the union, which has developed considerable expertise in processing them.

Impact on merit system. District Council 33 is widely conceded to be a strong supporter of the city's merit system, as established in 1952 under the Philadelphia Home Rule Charter, and in many quarters it is believed that broadening the union's membership by way of a union shop contract could serve only to insulate the civil service still further from political pressures. City officials seem gratified to report that this union does not try to accomplish its purpose by playing off the Administration against either the Council or the General Assembly. Also, the union is said to adhere scrupulously to the letter and spirit of the city's Civil Service Regulations, asking no preferential treatment of union members in such matters as layoffs, seniority, dismissals for cause, etc.

However, there exists always the possibility that the present half-and-half arrangement may encourage non-union members to conclude that union membership confers a special advantage even in areas subject to control by the city's Civil Service Regulations. Although joining the union would be an obvious means of closing this imaginary gap in status, a more devious method may be chosen by such employees; namely, the same type of politicking that once brought Philadelphia to—and, for many years, kept it in—such low repute.

The foregoing constitute some of the arguments frequently advanced in justification of the union shop. Some of them have been stated in

general terms; others have been related specifically to the Philadelphia situation. All of them, however, deserve to be weighed carefully before a decision is reached in the matter of a union shop contract between the city and District Council 33.

The final article in this series will be a presentation of some of the major arguments put forth in opposition to the union shop contract now being discussed.

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THE ARGUMENTS OF THE OPPOSITION MERIT CAREFUL CONSIDERATION TOO

There are a number of general and specific arguments which are often advanced in opposition to a union shop. So far as these apply to the Philadelphia situation, they merit careful weighing before a decision is made on the union shop proposal now being discussed by the city government and District Council 33.

Impact on recruitment. With respect to those positions which are under the city's civil service system, there is presumptively an open and equal opportunity for qualified persons to seek and secure municipal employment. On the basis of statements frequently made both publicly and privately, it is apparent that many persons in Philadelphia are concerned about the capacity of the city government to attract and retain its fair share of qualified employees, particularly those with clerical and technical skills. In the view of some officials, making union membership

This is the last of a series of articles on the union shop proposal; CITIZENS' BUSINESS Nos. 2,203 (May 23, 1960) and 2,204 (June 13, 1960) contain the earlier parts of this discussion.

mandatory for city employees would adversely affect the already difficult recruitment problem with which the city is confronted. When the current discussions of a new city-union contract were initiated several months ago, it was expected—in some quarters, at least—that the outcome would be a union shop agreement covering virtually all non-supervisory personnel regardless of occupational classification. More recent indications are that this is in the process of being watered down, but some statements suggest that it is still being considered on an across-the-board basis for certain groups of clerical employees.

Should a union shop agreement be endorsed and made applicable to present employees, it is argued that a substantial number of employees who have consistently resisted union recruitment campaigns may choose to withdraw from municipal service.

If there were an effort to extend the union shop to include technical and professional positions (e.g., librarians, nurses, engineers, and accountants), conflicts would inevitably arise between District Council 33 and the various professional associations to which these employees belong.

Impact on merit system. It has been suggested that a union shop is unnecessary in a jurisdiction which adheres—as Philadelphia does—to merit system principles and also that the two (union shop and merit system) are in fact incompatible in some respects. There are, for example, the following opposition viewpoints on grievances and promotion practices:

- The Civil Service Regulations provide adequate machinery for handling employee grievances, and the intercession of union representatives is superfluous.

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• At present, when a position held by a union member falls vacant, the tendency is to fill the vacancy by promotion from within the ranks of the employees in the agency in which the vacancy occurs. The Civil Service Regulations state that "competition in a promotion examination shall be open to employees . . . in such . . . departments as the Personnel Director in his discretion shall determine unless he deems it for the interests of the service to limit the examination to the employees serving in the department in which a promotion appointment is to be made." Present practice seems, therefore, to be tending to make a rule of what presumably was meant to be an exception. Once a union shop became effective, the union would no doubt strongly advocate and possibly achieve, extension of this practice of "internal promotion," particularly in those agencies where the union has but few members at present. This observation is probably of greater pertinence in white-collar positions.

• Another hazard to fair practices in promotion might arise if the union—bulwarked by a union shop contract—were at some future time successfully to prevail in gaining the city's acceptance of the view that seniority rather than merit is paramount.

Discrimination between civil service and exempt employees. There are more than 1,000 positions in municipal service which are not under civil service. These are largely in the courts and in agencies related to the courts. These positions are ultimately filled, in considerable measure, by patronage.

If a union shop contract were agreed upon, that contract would doubtless have to be effected by passage of a civil service regulation, which could not be applicable to the exempt positions. Under these circumstances, the exempt employees would not be required to become union members, and thus would not receive the benefits of such membership and would not be required to pay union dues. This would constitute a further discrimination between civil service employees

and non-civil service employees, all of whom are paid from the municipal treasury. It might well act to enhance, in the minds of some, the value of the patronage positions.

Absence of precedent. A survey conducted three years ago by an organization in another major city indicates that none of the principal cities in the United States then maintained a union shop. Few of them had even reached the point of making formal agreements with employee unions. Thus, in moving to a union shop, Philadelphia would be sailing uncharted waters. (It is only fair to state that this city has successfully pioneered in other aspects of employee relations, and lack of precedent is not of itself sufficient reason to preclude taking this step.)

Lack of suitable regulatory law relating to municipal unions. While a great deal of federal legislation has recently been enacted to help curb or forestall alleged union abuses, it would appear that little, if any, of this law would be applicable to District Council 33.

In these circumstances, the community as well as the municipal government may well be confronted with the need for legislation which would regulate the affairs of District Council 33 to such an extent as city Council finds desirable.

Of special importance in this connection would be the limiting of the union's right to use regular dues or special assessments for political purposes.

Conflict with charter provisions. There is good reason to question the legality of the city's entering into a union shop contract. Certainly, some of the characteristics of a union shop seem to be at variance with at least the following several provisions of the Philadelphia Home Rule Charter:

The purpose of the civil service provisions of this charter is to establish for the City a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, demotion, transfer, lay-off, removal and discipline of its employees, and other incidents of City employment. All appointments and promotions to positions in the civil service shall be made in accordance with the civil service regulations. [Section 7-300.]

The [civil service] regulations shall provide for . . . open competitive examinations to test the relative fitness of applicants for the respective positions . . . [and] promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, seniority and conduct. Vacancies shall be filled by promotion whenever possible, and promotion shall be on a competitive basis except where the Personnel Director with the approval of the Civil Service Commission finds that competition is impracticable. [Section 7-401 (c) and (e).]

No person shall be appointed or promoted to, or demoted or dismissed from, any position in the civil service, or in any way favored or discriminated against with respect to employment in the civil service because of his race, color, religion, national origin, political opinions or labor union activity lawful for municipal employees. [Section 10-111.]

No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the civil service. [Section 10-108 (2).]

Any dismissal or demotion after the completion of the required probationary period of service, or suspension of any employee in the civil service shall be for just cause only. [Section 7-303.]

Considering these provisions in relationship to the union shop proposal now under discussion—or, indeed, to any proposal which would compel membership in any organization—several involved legal questions arise:

• Can compulsory membership in a union be compatible with the concept of municipal employment required to be "based on merit principles and scientific methods"?

• Does the protection afforded to employees to engage in lawful union activity include the concept of being compelled to engage in union activity?

• Can union membership be compelled in the face of Section 10-108 (2) which specifically prohibits the solicitation or acceptance of money or other valuable consideration as a prerequisite to appointment, promotion or *advantage* in the civil service?

• Can it be successfully contended that an employee's failure to become or to continue as a union member constitutes *just cause* for dismissal?

The ultimate answer to these and other questions will doubtless have to be provided by the courts, and the outcome is not predictable. However, it can be said that, at the very least, the city will be confronted by some significant legal problems in attempting to establish the validity of a union shop contract to which the city might be a party.

Significant "side" effects. Analysis of January 1960 payrolls of the city government showed that there were 8,842 civilian employees who had chosen not to join District Council 33. If the city and the union do "wrap up" a union shop contract, what would be its effect, financially and otherwise, on however many of this group may be arbitrarily selected to become union members? As to union dues, the effect would be:

• Each employee who becomes a member of the union will pay annual dues amounting to \$39, which is equal to nearly 1% of the average annual salary of city employees. For those employees whose salaries are below average, \$39 represents about 1½% of annual salary, which is the going rate for the city's wage tax.

Some background is necessary to explain the

further effects. At the beginning of 1960, the city's contribution to health and welfare plans on behalf of its civilian employees was increased from \$90 annually per employee to \$120 annually per employee.* The city employees who do not belong to District Council 33 are free to designate which of the established medical-hospital-surgical programs (e.g., Blue Cross) shall receive this contribution. The present agreement between the city and the union contains the following "health and welfare" clause:

In the case of the members of District Council 33, AFL-CIO, the [Personnel] Director accepts the designation by the Union of the American Federation of Labor Health Center, Philadelphia, as the medical-hospitalization-surgical program for which the \$90.00 per annum will be paid.

Although the contract has not been formally amended to reflect the change in the amount which the city contributes to this program, it is our understanding that the city is presently paying \$120 annually to the AFL Health Center for each employee who belongs to the union. On this basis, we can assume that the city's 1960 contribution to the Center will total roundly \$1,200,000 for the 10,158 employees who, according to the January 1960 payrolls, were members of the union. If a union shop contract were executed with no change in the existing health and welfare clause, it seems likely to have the following effects:

• The city would contribute \$120 annually to the AFL Health Center on behalf of each of the employees thus involuntarily brought into the union. (For each additional 1,000 members delivered to the union, the Center would receive from the city annually \$120,000.)

• Non-union members who would be forced into

* Group life insurance coverage is also provided for these employees at a cost to the city of approximately \$32 annually per employee.

the union would lose their present freedom of choice in designating the health insurance they prefer.

• Since the hospitalization coverage provided at present by the AFL Health Center is less extensive than that provided by many other programs, the employee taken into the union would be required to pay extra for hospital care either by procuring additional insurance or by making direct payment in cash when illness occurs. (This situation may be improved somewhat when the AFL's \$4 million hospital facility in the Northeast is ready.)

• If an appreciable number of employees find themselves hard-pressed to provide for the cost of hospitalization (beyond the union Health Center's coverage), the city government will be pressured, no doubt successfully, to close the gap by (1) again increasing its contribution for employee welfare benefits; (2) providing free care at PGH; and (3) contributing much larger amounts to community hospitals for care of city employees.

Public Interest Must Prevail

As we stated in the first article of this series, the Pennsylvania Economy League and its affiliate, the Bureau of Municipal Research, take no position on the union shop question. However, we do believe that those responsible for the policy decision which must be taken should ponder, and ponder carefully, all facets of this problem and then take whatever action they conscientiously believe to be directly in the public interest.

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be placed on the ballot, unopposed, and the voters would determine whether he should be retained for a full term; if the majority voted against him, a vacancy would exist and the appointment-election process would begin again. If the majority voted to retain the judge, he would be considered elected for a full term; at the expiration of his term, he could run for re-election unopposed on the question of whether he shall or shall not be continued in office.

This proposed system, known as the "Pennsylvania Plan," is modeled after that adopted in 1940 by the voters of the State of Missouri. Similar systems have been adopted by the states of California and Alaska and recommended for the state of Louisiana. The principles embodied in such systems are endorsed in the *Model State Constitution* of the National Municipal League. The Pennsylvania Bar Association has recommended the use of the "Pennsylvania Plan" in Pennsylvania.

The "Pennsylvania Plan" would, in effect, provide a compromise between the two previous systems practiced in Pennsylvania (discussed below), both of which have proved defective, and add an essential element—a judicial commission which, it is hoped, would be politically impartial and serve to restrict the Governor's appointment to qualified nominees.

The defects of the past and present systems need to be understood in order to evaluate the proposed plan.

The Record of the Past

The procedure for selecting judges in Pennsylvania went through several changes during the first 98 years of the Commonwealth.*

* Pennsylvania was established as a Commonwealth in 1776. Prior to that time it was organized as a provincial government.

Just Off the Press

Philadelphia and Constitutional Revision, on which this series of articles is based, was published early this month. The 116-page report is an outgrowth of a two-year study, conducted by our organization and made possible by financial aid from the Thomas Skelton Harrison Foundation, an agency created to promote good government in Philadelphia.

The report contains 24 recommendations for revision of constitutional provisions which are of special concern to Philadelphia; if adopted, they would increase the city's effectiveness as an important sector of the Commonwealth. These recommendations bear on home rule powers, debt limit, reapportionment, and other facets of democratic government.

Copies of the complete report are available at \$2 each; single copies are available without charge to our members.

Under the Constitution of 1776, Pennsylvania was governed by a unicameral legislative body and an elective Council headed by a President who was elected jointly by the Council and the legislative body. The President and the Council appointed all judges.*

The Constitution of 1790 established a bicameral legislative body and a Governor to replace the Council as the executive arm of the government. The power to appoint judges was vested in the Governor.†

* Constitution of 1776, Sections 19 and 20.

† Constitution of 1790, Article I, Section 1; Article II, Sections 1 and 8; Article V, Sections 4 and 10.

The Constitution of 1838 restricted the Governor's power over judicial appointments by (1) requiring the State Senate to pass on appointees to the courts of record, and (2) providing for election of the minor judiciary (justices of the peace and aldermen, at that time).* The Constitution of 1838 was amended in 1850 to require that the judges of the courts of record be elected rather than appointed.

The Constitution of 1874 continued the requirement that judges be elected and added provisions for limited voting for judges of the State Supreme Court (Section 16) and magistrates in Philadelphia (Section 12).

Thus, it will be noted that in the first 74 years of Pennsylvania's history as a Commonwealth, judges of the courts of record were selected through appointment; and, during the past 110 years, through direct election. The changeover is attributed to a strong, popular, mid-19th century movement to expand the democratic powers of the electorate. This movement resulted from objections (made not without cause) to the state's executive officers' having abused their appointive powers. Now, the pendulum has swung sufficiently to warrant the conclusion that direct election is not the best way of obtaining a qualified and independent judiciary.†

The deficiencies of the present system have been adequately studied by several agencies, one

* Constitution of 1838, Article V, Section 2; and Article VI, Section 6.

† It should be noted that the Governor is empowered to fill vacancies by appointment, with the consent of the Senate when that body is in session and without this restriction when the Senate is not in session. This procedure continues to make the selection of judges a troublesome matter of partisan politics. This is compounded by Pennsylvania's "sitting judge" principle—a "gentlemen's agreement" that both political parties will support the reelection of an incumbent judge, though this principle is not universally followed.

of which—the Philadelphia Bar Association—aimed these criticisms at the present system of selection of judges:

- Political influence outweighs merit, and political leaders outrank others in filling judicial vacancies.
- A judgeship requires dedication of service; dedication is unsafe and unprotected.
- Judges are obliged to enter political campaigns with their attention diverted from their legal assignments.
- It forces judges to continue in politics while in office.
- Voters are bewildered in trying to select those with the best judicial qualifications.*

As proposed, the “Pennsylvania Plan” would be mandatory for selecting the judges of the state’s Supreme and Superior Courts, and *all* courts in Philadelphia and Allegheny counties; it would be left to the option of the voters in other judicial districts.

No Risk Involved

Only time will tell if the hopes for political impartiality would be realized were the Pennsylvania Plan to become effective. At worst, the proposed system could not produce less attractive results than the present one; at best, it would be a tremendous step toward achieving an effective and politically independent judiciary.

Our organization makes no recommendation as to whether the “Pennsylvania Plan” should apply to Allegheny County or to any county other than Philadelphia (our study is limited to consideration of Philadelphia’s interest in constitutional revision). We have, however, concluded that the

* Philadelphia Bar Association, *In Support of the Pennsylvania Plan for the Selection and Tenure of Judges* (Undated), pp. 6-8.

plan would benefit Philadelphia and should apply, as a minimum, to the magistrates’ courts.*

Recommendation

To provide for a better system of selecting judges in Philadelphia, this organization recommends that Article V of the Constitution be amended to require that the “Pennsylvania Plan” be followed for the selection of judges for the judicial district of Philadelphia, including the magistrates’ courts.

* The place of the magistrates’ courts in the judicial system will be discussed in a future article.

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September 26, 1960

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A UNIFIED COURT SYSTEM

Constitution Should Provide or Permit Unified Court System for Philadelphia

The need for a co-ordinated and uniform system of judicial administration in Philadelphia has been recognized for years and is long overdue. The same comment may likewise be applied to Pennsylvania as a whole.

In Opposite Directions

The most recent constitutional change affecting judicial administration in Pennsylvania dates back to 1911. A somewhat schizophrenic amendment adopted in that year *consolidated* Allegheny County's two Courts of Common Pleas and *increased* from four to five the number of "distinct and separate courts of equal and coordinate jurisdiction" in Philadelphia. (This amendment also empowered the Legislature to create additional courts in Philadelphia; thus, there are now seven separate Courts of Common Pleas in Philadelphia.)

This is the fifteenth article on Philadelphia's interest in revising the Pennsylvania Constitution. The series is based on our recent report, Philadelphia and Constitutional Revision. Copies of the report are available free of charge to our members; to others, the price is \$2.

The Present System

The Courts of Common Pleas have jurisdiction primarily over civil proceedings. Under Pennsylvania judicial custom, criminal proceedings are heard in Courts of Quarter Sessions of the Peace and Courts of Oyer and Terminer and General Jail Delivery with the Common Pleas judges presiding. (The system is one which introduces several legal technicalities and opportunities for errors in legal procedures, and there is considerable question about its efficacy as a system for administering justice.) The designation and jurisdiction of Courts of Common Pleas, Courts of Quarter Sessions, and Courts of Oyer and Terminer are defined in the Constitution.

In addition, the Constitution *requires* a separate Orphans' Court in each county with more than 150,000 people and *permits* their establishment in the less populous counties. The Orphans' Court is a civil court with jurisdiction limited mainly to the settlement of decedents' estates, administration of wills and trusts, and issuance of marriage licenses. In counties where there is no Orphans' Court, the functions of the Orphans' Court are performed by the judges of the Courts of Common Pleas. An Orphans' Court judge may also, under some circumstances, serve as a judge in the Courts of Common Pleas and thereby also serve as a judge in criminal courts.¹

Some Changes Permitted

The Constitution (Article V, Section 26) prohibits the General Assembly from creating other courts "to exercise the powers vested by this Constitution in the judges of the Courts of Common Pleas and Orphans' Court" except in Philadelphia where, under Section 6, some changes may

¹ For a more detailed description of the court systems of Philadelphia, see BMR-PEL report, *Philadelphia Government—1956*.

be made "by law." In 1913, an act of the General Assembly which would have consolidated Philadelphia's five separate Common Pleas Courts into one court was declared unconstitutional. The decision affirmed that the Legislature had power to change the jurisdiction and powers of the Common Pleas judges and of the courts themselves, but had no power to destroy—by consolidation—the separate identities of courts established by the Constitution.²

In 1913, the General Assembly established a Municipal Court in Philadelphia as a "court of record" with limited civil and criminal jurisdiction and specific jurisdiction over juvenile cases. Litigation over this act resulted in the decision that the establishment of the Municipal Court was constitutional under Article V, Section 1, which authorized the Legislature to establish courts of a grade and character different from those enumerated in the Constitution.³

In addition to the above listed "courts of record," the Constitution establishes (under Article V, Section 12) a system of separate Magistrates' Courts in Philadelphia, which are courts "not of record,"⁴ with jurisdiction limited to "police and civil causes, with jurisdiction not exceeding one hundred dollars."

A separate Magistrates' Court is authorized for each 30,000 people. Thus, the Constitution would appear to require Philadelphia to have about 70 Magistrates' Courts. Actually, this phrase of the Constitution was interpreted as long ago as 1885 to be permissive rather than mandatory.⁵ The

² 1913, P.L. 469; *Bachman v. McMichael*, 89 A. 573, 242 Pa. 482 (1913).

³ 1913, P.L. 711; *Gerlach v. Moore*, 90 A. 399, 243 Pa. 603 (1914).

⁴ The terms "courts of record" and "courts not of record" are traditional terms of English law though they actually have little meaning. All courts maintain written records.

⁵ *In re Cahill*, 20 A. 414, 110 Pa. 167 (1885).

actual establishment of the Magistrates' Courts requires an act of the General Assembly. The General Assembly has authorized 28 to date. While the magistrates have exerted considerable pressure to have additional courts established, a thorough study by this organization of the workload of the Magistrates' Courts showed that there are already too many magistrates and their number could be reduced to 16 without impairing their performance.⁶

Advantages of Unified System

In considering the need for a unified and coordinated system of judicial administration, some thought must be given to the advantages of a system which would have state-wide application. The following recent developments are significant:

- A number of states have enacted statutes or constitutional provisions giving the highest court of the state the power to regulate practice and procedure in all, or nearly all, the courts of the state.

- The Constitution of the new state of Alaska provides for a unified state court system, consisting of a Supreme Court, Superior Court, and such other courts as the legislature may establish; the jurisdiction of courts is to be prescribed by law, judicial districts are to be established by law, and "the courts shall constitute a unified judicial system for operation and administration."⁷

- The *Model State Constitution* of the National Municipal League recommends a unified state system.⁸

What Philadelphia Needs

It is beyond the scope of our report to recommend a unified court system for the entire state.⁹ However, it is appropriate to suggest that special

⁶ BMR-PEL, *The Magistrates' Courts of Philadelphia* (1958).

⁷ Constitution of the State of Alaska, 1956, Article IV, Section 1.

⁸ Article VI, Sections 600-605.

⁹ A Subcommittee on Judiciary Article of the Advisory Committee, Joint State Government Commission, has recommended a new judiciary article which would provide a single unified court system for the entire state.

consideration needs to be given to the advantages of establishing for Philadelphia a unified court system which would include all of the Philadelphia courts except, possibly, the Orphans' Court.

In establishing such a system, several factors need to be considered:

1. The desirability of combining the separate Courts of Common Pleas into one court has been generally recognized for years.

2. The Municipal Court is in substance and operation a specialized branch of Common Pleas Court although it has specific responsibilities defined by statute. As the Municipal Court was created by statute and is not mentioned in the Constitution, no constitutional change would be necessary to bring the Municipal Court into a unified court system for Philadelphia.

3. Our study of the Magistrates' Courts has produced convincing evidence that the system provided by the Constitution should be changed to provide for a single Magistrates' Court, and, in our opinion, it would be desirable for the Magistrates' Court to be closely integrated with, and responsible to, the Common Pleas Court. We suggest that it may well be established as a branch of Common Pleas.

4. The Orphans' Court is a separate court designated to perform the specific functions already described; although its functions are different from those of the other courts, there is, from the standpoint of a judicial system, close connection between the Orphans' Court and the other courts because the Orphans' Court judges may also serve as judges in the Courts of Common Pleas and in the criminal courts. This close connection between the courts lends merit to the idea of including the Orphans' Court in any unified court system which may be established for Philadelphia. On the other hand, qualified observers point out that the Orphans' Court has a long history and tradition of competent service and, in view of the specialized function which it performs in Philadelphia, they see no reason for changing its status.

Without more detailed study than was feasible within the limits of this report, we make no rec-

ommendation at this point as to the Orphans' Court. However, we do suggest that there is substantial benefit to be derived from combining the other separate courts into a unified system in Philadelphia and that thorough study is warranted to determine if the Orphans' Court should also be included in the system.

Recommendation

To provide for a more efficient and effective system of judicial administration in Philadelphia, this organization recommends that the Courts of Common Pleas, the Municipal Court, and the Magistrates' Courts be brought into a single unified system and that a study be made to determine if the Orphans' Court should also be included in the single unified system.

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October 10, 1960

No. 2,208

TAXES AND 'CORPORATION A'

A Comparison of State and Local Taxes and Water and Sewer Costs in 82 Municipalities

Item: To promote industrial growth—or, more precisely, to promote this or that community as an ideal “home” for industry—governmental and private agencies in this country spend millions of dollars annually.

Item: Via a 36-page supplement to *The New York Times*, the Pennsylvania Department of Commerce advertises three benefits to be realized by industries locating plants in the Keystone State: 100% financing for new plants, improved tax “climate,” and expert help in making plant location surveys.

Item: The Council of the City of Philadelphia adopts a resolution “commending and saluting” the management of a local corporation for its decision to remain in Philadelphia “despite inducements from many communities that it transfer . . . operations from this City.”

These are but three among numerous reminders of the intensity of present-day competition for industrial base. The motives for waging campaigns to retain and/or attract industry are readily understandable, and it matters little whether the community's search for additional financial resources is engendered primarily by its need for renewal (as in Philadelphia) or for extension of essential services to new residential

developments (as in Tredyffrin Township and many others).

. . . Proposes, Management Disposes

Serviceable though the information developed by industrial development agencies may be, management has as well its own techniques for deciding where to locate industrial plants. High on the checklist used to "rate" properties and communities are cost comparisons, including those for state and local taxes and water and sewer services. All other factors being equal, these latter items of cost might be *the* basis for the management decision. It would seem, therefore, to be of considerable advantage to the competing communities and to industry to have readily available the means of comparing at least these costs with precision.

Useful to This Region

A report* recently published by this organization compares industrial costs for state and local taxes and water and sewer services in 82 municipalities (38 in Pennsylvania, 30 in New Jersey, 5 in Delaware, and 9 in Maryland). For purposes of comparison, the study assumes that "Corporation A," a manufacturing enterprise in its first year of operation, is domiciled variously—in each of the 82 municipalities—and is thus subject to different patterns of taxation for state and local purposes; the rates for water and sewer services vary also from one jurisdiction to another. (Space limitations do not permit a full statement here of (1) the assumptions as to Corporation A's constant characteristics, (2) the taxes and water and sewer rates applicable in

* *Comparative Tax, Water and Sewer Costs for Philadelphia and 81 Other Municipalities in Pennsylvania, New Jersey, Delaware and Maryland* (September 1960). Single copies are available free to our members; to others, the price is \$5 per copy.

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each municipality and state, and (3) the names of all the municipalities included in the study.)

State and Local Taxes

Ranking the 82 municipalities in accordance with the *state taxes* (domestic and foreign) payable on 1959 operations, we find that Corporation A pays the highest amount if it is domiciled in Lancaster, and the lowest, in Ewing Township. Philadelphia is in 25th position, and Baltimore County in 41st (median):

Rank	Municipality	State taxes (1959)
1	Lancaster City (Pa.)	\$141,956
25	Philadelphia	139,297
41	Baltimore County (Md.)	127,380
82	Ewing Twp. (Mercer Co., N.J.)	86,695

The amounts of *local taxes* yielded by corporation A in each domicile vary considerably, with Newark in first position and Philadelphia in 29th:

Rank	Municipality	Local taxes (1959)
1	Newark (N.J.)	\$201,177
29	Philadelphia	74,123
41	West Chester (Chester Co., Pa.)	58,553
82	Cumberland (Allegany Co., Md.)	7,117

When Corporation A's *state and local tax costs* are combined for each domicile, Newark remains in first place and Philadelphia becomes 12th:

Rank	Municipality	State & local taxes (1959)
1	Newark (N.J.)	\$288,013
12	Philadelphia	213,420
41	Sharon Hill (Del. Co., Pa.)	188,297
82	Burlington Twp. (N.J.)	137,694

Water and Sewer Costs

Corporation A is assumed to be using 500,000 gallons of water daily (119,000,000 gallons an-

nually) and to be discharging the entire amount into the sewer system.

The annual cost for this quantity of *water* (at 1959 rates) is higher in Sellersville than in any of the other 81 municipalities. Philadelphia is far down on the list (69th place):

Rank	Municipality	Water cost (1959)
1	Sellersville Boro (Bucks Co., Pa.)	\$40,753
41	Falls Twp. (Bucks Co., Pa.)	22,091
69	Philadelphia	15,702
82	Glassboro Boro (N.J.)	7,406

When Corporation A's costs for *sewer service* (at 1959 rates) are computed similarly, Morrisville is in first place, Kennett Square at the median position, Philadelphia 50th, and Palmyra last:

Rank	Municipality*	Sewer cost (1959)
1	Morrisville (Bucks Co., Pa.)	\$57,792
36	Kennett Square (Pa.)	11,915
50	Philadelphia	8,950
72	Palmyra Boro (N.J.)	15

When *water and sewer costs* are combined, Corporation A pays \$24,652 annually to the City of Philadelphia. This is less than a third of the amount charged in Morrisville, which is again in top position:

Rank	Municipality	Water & sewer costs (1959)
1	Morrisville (Bucks Co., Pa.)	\$87,736
41	Hamilton Twp. (Mercer Co., N.J.)	32,839
61	Philadelphia	24,652
82	Glassboro Boro (N.J.)	12,175

Comparing the Totals

When these four types of costs (state and local taxes, and water and sewer charges) are con-

* Ten of the 82 municipalities studied include charges for sewer service in their general tax levies.

sidered in total, we find Corporation A paying more in the City of Baltimore than in any of the other 81 municipalities:

Rank	Municipality	State & local taxes, water & sewer costs (1959)
1	Baltimore City (Md.)	\$310,768
30	Philadelphia	238,072
41	Clifton Heights (Pa.)	227,850
82	Burlington City (N.J.)	161,647

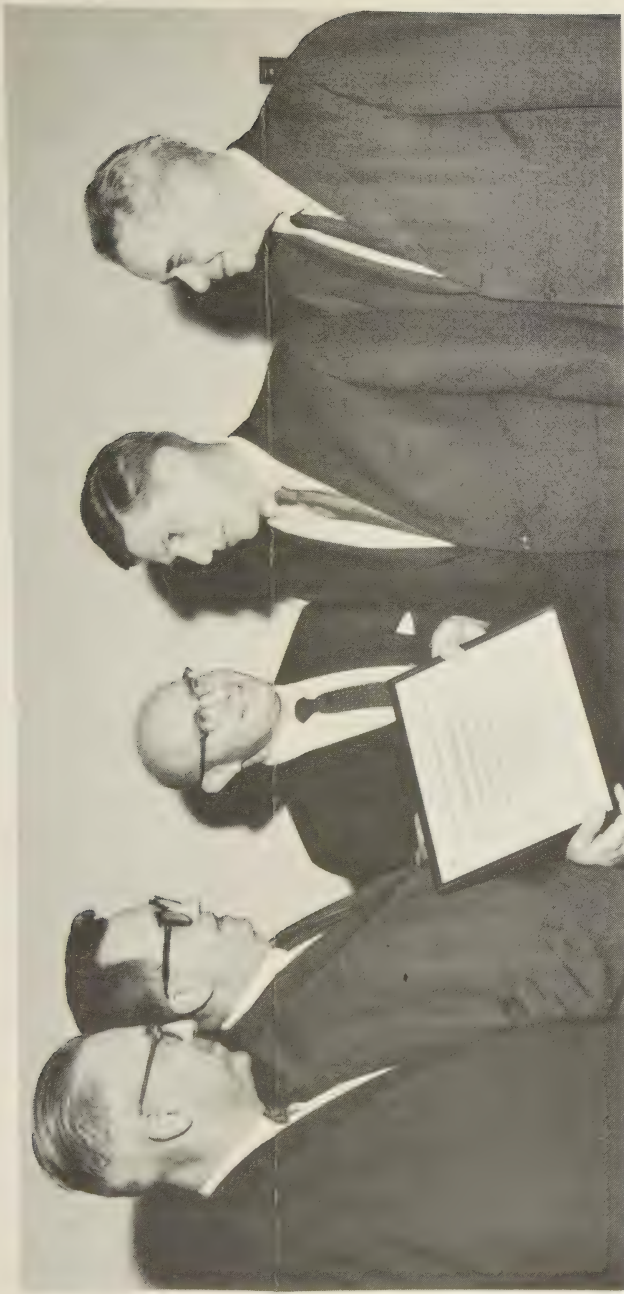
Some Caveats, Too

For Corporation A, as for any other enterprise, these cost data can be of maximum use only if they are considered in the context of the industry's special requirements and in relation to such factors as:

- Probable trends in state and local taxes over the coming decade.
- Availability and quality of water supply.
- Capacity and character of sewage treatment facilities.

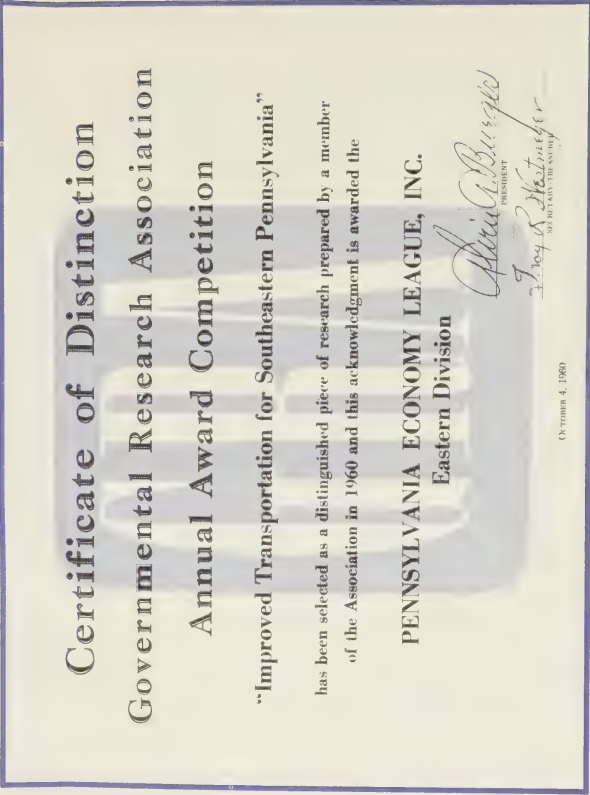
For example, the quantity of water needed by Corporation A might be beyond the capacity of the present water treatment and distribution facilities in many of the 82 municipalities; therefore, in some cases, the necessary expansion of facilities would be accompanied by a rate increase of unknowable dimensions. On the other hand, any system which could accommodate such a user without enlargement of facilities might be able to reduce its over-all rate. If sub-surface aquifers are relied on—as they are in much of this region—as a source of water for industrial use, the charges tabulated in this report would not apply. The use of surface sources of untreated rather than potable water for non-critical processes would also affect the cost picture.

In utilizing the data on costs of sewer service, it should be noted that a number of the sewer



↑
 Lennox L. Moak (2nd from left) accepts the Governmental Research Association's 1960 "distinguished research" award, conferred on the Eastern Division for its report, Improved Transportation in Southeastern Pennsylvania. Others pictured at the award ceremony are (l. to r.) Wilbur C. Webb and Edwin Rothman of the PEL; Craig M. Smith, Chairman of the Award Committee; and Alvin A. Burger, President of the Governmental Research Association.

→
 The 1960 Certificate of Distinction is the sixth one in this organization's collection of national awards, the earlier ones having been presented in 1949, 1952, 1953, 1954 and 1958.



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and sewage disposal systems have been designed with substantial excess capacity and could accommodate the additional 500,000 gallons discharged daily by Corporation A; however, a number of the municipalities listed do not have sewage treatment facilities. Some which do, serve only a small area of the municipality. Some have facilities for preliminary treatment only, whereas others provide full treatment. Accordingly, the substantial additional volume of sewage of the character likely to come from industrial operations might require an increase in the capacity of the sewers or a change in the character and/or capacity of the sewage treatment facilities.

Finally, if the effluent from the sewage plant requires only minimal treatment and the plant is located near natural watercourses, there might be no necessity to use the public sewer system.

An Easy Application

The technique used in this study to ascertain Corporation A's relative costs (for state and local taxes and for water and sewer services) can be applied with ease to develop similar data for other enterprises, at present or prospective locations, in these 82 municipalities or elsewhere.

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CITIZENS' BUSINESS

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EXCESS 'BAGGAGE'

Constitution Need Not Specify Titles of Administrative Officers Serving Courts

The titles and duties of two of the administrative officers of the Philadelphia courts—the Prothonotary and the Register of Wills—are designated in the Pennsylvania Constitution. The mention of these officers and their functions in Article V (Sections 7 and 22)* is objectionable from two standpoints:

- As an obstacle to establishing the effectively organized and unified administrative system which is needed to serve the Philadelphia judiciary.

- As a barrier to completing the consolidation of the city and county of Philadelphia and giving full effect to the Philadelphia Home Rule Charter.†

* Other proposals to amend the Judiciary Article were presented in CITIZENS' BUSINESS Nos. 2,201, 2,206, and 2,207.

† Even if paragraph (7) of the city-county consolidation amendment (Article XIV, Section 8) were revised as suggested in CITIZENS' BUSINESS No. 2,184 to enable the voters of Philadelphia to reorganize the former county agencies by the adoption of appropriate charter amendments, the mention of the Prothonotary and Register of Wills in Article V would be an impediment to voter action on their offices.

This is the sixteenth article on Philadelphia's interest in revising the Pennsylvania Constitution. The series is based on our recent report, Philadelphia and Constitutional Revision. Copies of the report are available free of charge to our members; to others, the price is \$2.

The nature of the former difficulty is fairly obvious, and the remedy lies in revision of Article V. To that end, we recommend elimination of the present Section 7, which describes in detail the Prothonotary and his office, and the addition of a new Section 7, as follows:

Administrative and judicial records of the courts of Philadelphia shall be kept by such officers and in such manner as may be provided by law.

Philadelphia should be exempted from the provision concerning the Register of Wills in Section 22, and the following language should be added to this section:

Provided that in Philadelphia the Orphans' Court shall have such administrative officers and administrative duties as may be provided by law, and Provided further that in Philadelphia the Orphans' Court may be established as a division of the Court of Common Pleas, subject to such rules and regulations as are provided for the Court of Common Pleas in Philadelphia by this Constitution or as may be provided by law.

These suggested changes in the Judiciary Article would also clear the path to "consolidation" in that they would remove the only prop supporting the view that the Prothonotary and the Register of Wills are outside the scope of consolidation. The rationale for shifting the status of these officers is discussed here, as is the legal backdrop against which they presently operate.

The Judicial Officers

The judicial function is considered to be a function of state government rather than of local government, although the state has delegated to the counties a substantial measure of responsibility—including financial responsibility—for its administration.

Several important questions were raised, after

the adoption in 1951 of the city-county consolidation amendment, as to which of the following judicial officers were county officers within the scope of the amendment and as to the extent to which the Philadelphia Home Rule Charter was controlling on them, their employees, expenses, and functions:

Prothonotary	District Attorney
Register of Wills	Inspectors of County Prison
Recorder of Deeds	Sheriff
Clerk of Quarter Sessions	Youth Study Center
Coroner	

A series of court tests, plus solicitor's opinions and further legislation by the General Assembly and the Philadelphia Council, resolved the status of these agencies.* Thus, the Prothonotary and Register of Wills are not county officers within the intention of the amendment and, not having been transformed into city officers, are not subject to the charter; the characterization of these officers as "state" judicial officers—despite their being termed "county officers" in Article XIV—stems from the description contained in the Judiciary Article. The other officers and agencies enumerated above became city officers and agencies and, as such, subject to the charter's civil service, fiscal, and procurement provisions, but the extent of their integration into the city government is otherwise varied:

- The *Recorder of Deeds*, the *Coroner*, and the *Board of Inspectors of the County Prison* were abolished, and their functions have been assigned, respectively, to the Department of Records, Department of Public Health, and Department of Public Welfare.

- The *Clerk of Quarter Sessions* continues as an elective officer of the city; however, under the 1953 city-county consolidation act, Council does have the power

* The other affected agencies are not discussed here since their functions are non-judicial.

to alter the manner of selecting the Clerk, or to abolish the office and assign his duties elsewhere.

- The *District Attorney's* term of office has been altered to coincide with that of the Controller; the city lacks statutory authority to act further on the *District Attorney*, *Sheriff*, and *Youth Study Center*.

Difference in Status, Not in Duties

From a functional standpoint, there appears to be little logic in perpetuating the extreme differences in the legal status of the offices—and thus of the duties—of the Prothonotary, the Register of Wills, the Clerk of Quarter Sessions, and the bygone Recorder of Deeds. All are primarily ministerial, administrative, non-policymaking officers of the courts, and their duties are largely clerical in nature:

- The *Prothonotary* serves as clerk and administrator for the Courts of Common Pleas and the Civil Division of the Municipal Court.

- The *Clerk of Quarter Sessions* serves as clerk and administrator for the Courts of Quarter Sessions and the non-civil divisions of the Municipal Court.

- The *Register of Wills* is clerk and administrator of the Orphans' Court.

- The *Recorder of Deeds* had clerical functions similar to those of the Register of Wills; however, he did not have quasi-judicial responsibilities, as does the Register.

One of the obvious anomalies of this situation is that the employees of the Clerk of Quarter Sessions are under the city's civil service system while the employees of the Prothonotary are not, even though the two officers serve the same judges, inasmuch as the Common Pleas judges preside over the Courts of Quarter Sessions.

The fact that the employees of the Prothonotary and the Register of Wills are not subject to the charter's civil service provisions has further significance: these constitutional offices

stand out as two islands of political patronage. As such, they represent additional (and undesirable) points of pressure on the judges as instruments of partisan politics. If the thesis of the "Pennsylvania Plan" is accepted (i.e., to divorce judges from partisan politics), removal of this patronage incentive would seem to be an appropriate step.

Recommendation

This organization recommends that Sections 7 and 22 of Article V be amended in the manner suggested earlier (see page 2). If this were to be done, precedents indicate that the Prothonotary and Register of Wills would become subject to the charter. A logical question arises: By whom would such judicial employees then be appointed? The charter specifically provides for this contingency in Section 1-102 (2):

In the case of new officers whose primary duties are to assist the courts, the appointive power may be vested in the judges thereof.

STATEMENT REQUIRED BY THE ACT OF AUGUST 24, 1912, AS AMENDED BY THE ACTS OF MARCH 3, 1933, JULY 2, 1946 AND JUNE 11, 1960 (74 STAT. 208) SHOWING THE OWNERSHIP, MANAGEMENT, AND CIRCULATION OF *CITIZENS' BUSINESS*, published semi-monthly except in July and August at Philadelphia, Pa., for October 1, 1960.

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2. The owner is: Bureau of Municipal Research, Liberty Trust Building, 1341 Arch Street, Phila. 7, Pa. No capital stock.

3. The known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are: None.

4. Paragraphs 2 and 3 include, in cases where the stockholder or security holder appears upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting; also the statements in the two paragraphs show the affiant's full knowledge and belief as to the circumstances and conditions under which stockholders and security holders who do not appear upon the books of the company as trustees, hold stock and securities in a capacity other than that of a bona fide owner.

5. The average number of copies of each issue of this publication sold or distributed, through the mails or otherwise, to paid subscribers during the 12 months preceding the date shown above was: 2,520.

EMMA L. BOWMAN, Editor

Sworn to and subscribed before me this 28th day of September, 1960.

Amelia E. Teubner

[SEAL]

(My Commission expires January 7, 1963.)

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PHILADELPHIA'S BUSINESS

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TREND OF MUNICIPAL EMPLOYMENT

Mid-Year Tally for Budget Purposes Shows Rise in Permanent, Full-Time Employment

When the city's 1961 operating budget ordinance is adopted on November 30th, the amounts of the various lump-sum appropriations will express the Council's decisions on municipal programs for the coming year. For example, the appropriations for "personal services" will, in effect, authorize the level of municipal employment for 1961.

The Budget Request

As submitted to Council by the Mayor, the 1961 operating budgets request appropriations of \$145.9 million for salaries and wages for all city employees paid from the operating funds enumerated in the ordinance. This sum includes \$7.4 million for pay rises (6% for police and 5% for other employees). An additional \$3.4 million is asked to continue employee health and welfare benefits at the present level.

The lion's share of this \$149.3 million is intended to support the 29,278 permanent, full-time positions which the city agencies have requested

for next year.* This is 453 (2%) more positions than were *authorized* at July 31, 1960, and 1,824 (7%) more than were *filled* at that date. It is also 6,157 (26.6%) more positions than were filled at July 1, 1952.

Experience suggests that the 29,278 permanent, full-time positions requested for 1961 could not be filled even if they were to be authorized, unless the Administration relaxes its "job freeze" and, at the same time, several types of "scarce-skill" employees enter the labor market. Lacking these occurrences, 1961 vacancies probably will reflect the pattern of recent years; for example, the vacancy rate was 4.8% of the 28,825 positions authorized at July 31, 1960, and over the past seven years, the mid-year tallies have shown vacancies averaging 5.3%. If these 29,278 positions were to be authorized, and the proposed pay rises approved, it seems likely that the city's personnel complement might reach 28,250 next year, which would be roundly 3% over the number employed at mid-1960 and 22% over the mid-1952 level.

The Past Eight Years

This proposal to increase the number of city employees follows the trend of recent years. At mid-year 1960, the city had 27,454 permanent, full-time employees on its payrolls, 4,333 (18.7%) more than were employed at mid-year 1952. In reviewing the year-by-year changes in the following table, it should be noted that the 1960 personnel total is higher than that for 1959,

* The information presented here on the number of permanent, full-time positions and employees was compiled from the supporting detail of the city's annual operating budgets for the years 1953 through 1961. This article is essentially a summary of our *Trend of Employment* report, in which similar data are shown on both agency and fund bases.

Management and Manpower

The Philadelphia Citizens' Budget Committee has proposed "a comprehensive management study of the agencies and departments financed under the General Fund," and the Mayor has stated that he "will be glad to recommend such a study next year." As the CBC has pointed out, "this study, to be thorough, would be expensive but the cost would be recaptured many times in the future." A major objective of a detailed management study of this type would be to achieve a more effective deployment of city employees performing the indispensable functions of the municipal government.*

* The Water Department is the only city agency not financed out of the General Fund.

but it does not reach the "high" of 27,499 established in 1958:

At mid-year	No. of employees	<u>Annual change</u> <u>No. (%)</u>	
1952	23,121	—Base Year—	
1953	23,365	+ 244	(+1.1%)
1954	25,101	+ 1,736	(+7.4%)
1955	25,554	+ 453	(+1.8%)
1956	25,904	+ 350	(+1.4%)
1957	27,057	+ 1,153	(+4.5%)
1958	27,499	+ 442	(+1.6%)
1959	27,303	— 196	(—0.7%)
1960	27,454	+ 151	(+0.6%)

Among the primary reasons for the over-all increase in employees are (1) shortening the work-week for all employees in 1953 and for police in 1957 and 1960, and (2) expanding the services rendered by the city government.

By Agency or Function

In the eight-year period 1952–1960, the personnel totals of 43 city agencies (shown sep-

arately or grouped by functions) have increased or decreased as follows:

Agency or function*	Employees		Change	
	6/30/52	7/31/60	No.	(%)
Welfare agencies (3)	551	1,054	+503	(+91.3%)
Licensing and inspection agencies (4)	225	411	+186	(+82.7%)
Dept. of Public Health	486	808	+322	(+66.3%)
Tax, fiscal, procurement agencies (9)	898	1,399	+501	(+55.8%)
Free Library	433	623	+190	(+43.9%)
Courts and court agencies (12)	1,482	1,958	+476	(+32.1%)
Police Dept.	4,794†	5,855	+1,061	(+22.1%)
Water Dept.	1,120	1,333	+213	(+19.0%)
Recreation agencies (5)	1,629	1,872	+243	(+14.9%)
Dept. of Streets	3,823	4,362	+539	(+14.1%)
Public property agencies (3)	866	967	+101	(+11.7%)
Phila. General Hospital	2,606‡	2,712	+106	(+ 4.1%)
Fire Dept.	3,087†	2,856	—231	(— 7.5%)

* Listed in order of percentage change.

† Adjusted to exclude certain disabled personnel; since 1954, these employees have been on Regulation #32 payrolls, rather than departmental payrolls.

‡ Adjusted to include employees who formerly were not classified as "permanent, full-time."

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A VITAL STEP

Functional Road Classification Needed To Better Area's Road Administration

Providing and maintaining a transportation network adequate to meet the present and future needs of Southeastern Pennsylvania is an acute problem facing the governmental units in the area. This organization has completed a study of the pattern of planning, financing, administering, constructing, and maintaining the road system in Southeastern Pennsylvania, including relationships with mass transportation. We found grave deficiencies all along the line.

No Logical Road Classification

One of the fundamental deficiencies is the lack of a logical system of classification of the 11,300 miles of roads in Southeastern Pennsylvania. Responsibility for these roads and the bridges thereon is divided among 244 separate public

This is the first article of a series based on our recent work, Improved Transportation for Southeastern Pennsylvania, prepared for the Study Commission of the Philadelphia Metropolitan Area. Single copies of the 480-page report are available free of charge to our members; to others, the price is \$10 a copy. Also available are a limited number of free copies of a 24-page Digest of the report.

agencies, as follows: 3,400 miles are state roads, administered by the State Department of Highways; 7,700 are municipal roads, administered by 238 cities, boroughs, and townships; 85 miles are toll roads, administered by the Pennsylvania Turnpike Commission; and the remaining 80 miles are county roads, administered by Montgomery County. Although Bucks, Chester, and Delaware Counties have no county roads as such, each does have county bridges.

The state is responsible for more road mileage in the five-county area than is any one county or municipality in Southeastern Pennsylvania. There is great diversity, however, in the functions and characteristics of the state roads. They vary in character from city streets to limited access expressways; in lanes, from two to twelve; in type of traffic served, from mainly local traffic destined for homes abutting the road to mainly long-distance through traffic. While the state roads include most of the roads carrying interstate and inter-regional traffic, they also include many of the roads carrying intercommunity and local traffic.

There is also diversity in the functions and characteristics of the municipal roads in the area. Most of the municipal roads serve primarily local traffic. Some municipal mileage, however, is also of importance for serving inter-municipal and inter-county traffic.

Present State Classification Inadequate

The present classification of state roads does not reflect the diversity in their functions and character. The state has a twofold classification of its roads as "main state highways" and "rural state highways." (In the five counties, about 1,400 miles are "main state highways" and 2,000 miles, "rural state highways.") This classifica-

tion has a historical rather than a functional basis. The "rural highways" are mainly those which were taken over from municipalities in 1931 and in subsequent years, while the balance of the state roads comprise the "state main" system.

All state highways in Philadelphia are classified as "rural highways," which is illustrative of the fact that the classification does not indicate the characteristics of the roads.

Municipal Road Classification

Only a few municipalities in Southeastern Pennsylvania have classified the roads within their boundaries for planning and subdivision control purposes. Philadelphia's comprehensive plan, for example, divided Philadelphia's roads among three groups: expressways (state highways); arterial streets (both state and municipal roads); and local streets (municipal roads).

Functional Classification Needed

It is a generally accepted principle of progressive road administration that public roads should be classified functionally according to the services they perform. Functional road classification has numerous advantages, including:

- Makes possible the planning of additions and improvements to each class of roads in the system on the basis of standards established specially for the functions each class of road is to perform.
- Provides a guide to the degree of improvement which each road requires. (The roads in each class within the system can be designed to meet the standards required for the intended use of that particular class.)
- Facilitates the determination of relative financial need on the basis of objective criteria. Once roads are functionally classified and standards established for each class, an engineering appraisal can determine the financial requirements to bring each mile of road in each class up to standard.

● Serves as a basis for the allocation of the responsibility for construction and maintenance of each mile of road to the most appropriate governmental level.

Classification Proposed

This organization concludes that a reclassification of all public roads in the state should be undertaken as promptly as possible. The classification, to be based on functional criteria, should assign all public roads to one of two main categories:

1. *primary roads*—those of regional, inter-regional or interstate importance.

2. *secondary roads*—all other roads. This category should be subdivided further into *county arterial roads*, embracing those of major intercommunity importance, and *local roads*.

The major determinant for classification would be the character of the predominant traffic use. However, in the case of heavily travelled urban roads, an equally important consideration would be whether they serve as essential links in the statewide network of interstate, inter-regional, and inter-county roads. Thus, some roads in urban areas would be part of the *primary* system even though the numerical majority of the traffic using the road might be local or intercommunity in character.

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COUNTIES SHOULD HAVE LARGER ROLE IN ROAD ADMINISTRATION

The present distribution of road responsibilities among the state, county, and municipal governments in Southeastern Pennsylvania requires modification if the area is to achieve more efficient and effective performance of the road function. Essential to such a modification is the functional classification of roads, which is described in the previous article in this series. Under this proposed classification system, each public road would be designated as either a *primary road* or a *secondary road*. (Roads in the former group would be those of regional, inter-regional, or interstate importance; roads in the latter group, of only intercommunity or local importance.)

A New Distribution of Responsibility

This organization recommends the following

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distribution of responsibility for these two classes of roads:

- *Primary roads.* The state government would be responsible for all roads assigned to this class.

- *Secondary roads.* The local governments (counties and municipalities) would be responsible for all roads assigned to this class; i.e., each county would be responsible for the intercommunity roads within its borders, and each municipality would be responsible for its own local roads.

A Pattern of Administration

To enable the county governments to fulfill the larger roles which would fall to them, this organization recommends that the pattern for administration of the secondary road system in each county be essentially as follows:

- *County highway department.* The department would have six operating units: planning, construction, maintenance, traffic engineering, education, and municipal assistance.

- *County highway director.* The director would be the executive head of the county highway department; selection of the director—from a list of nominees submitted by the county highway advisory board—would be a function of the County Commissioners.

- *County highway advisory board.* The board, an appointive body, would represent the general public, officials of municipalities within the county, and technical experts.* Its major function would be to assist the director of the county highway department.

- *Merit system.* All employees of the county highway department would be under a merit system governing their recruitment, promotion, etc.

Advantages of Proposed System

One major advantage of the new distribution of responsibilities suggested here is that admini-

* For example, the board could be composed of nine members appointed as follows: *three* from the county at large; *three* from lists of nominees submitted by the three county-wide associations of local officials; and *three* from a list submitted by a panel of deans of the major engineering colleges in the area.

Two State "Funds" for Highways

Highway expenditures of the Commonwealth of Pennsylvania are funneled through (1) the state's Motor License Fund and (2) the state's Liquid Fuels Tax Fund.

*The Motor License Fund is by far the larger of the two; its receipts include registration fees, federal aid, and 90% of the proceeds of the state's five cents per gallon tax on liquid fuels.**

The Liquid Fuels Tax Fund receives 10% of the proceeds of the state's five cents per gallon tax on liquid fuels. It is the money in this fund that is subsequently distributed to the counties.

** In other words, out of the five cents collected by the state on each gallon of liquid fuel, four and one half cents go into the Motor License Fund and the remaining one half cent goes into the state's Liquid Fuels Tax Fund.*

strative responsibility for each class of roads would vest in that level of government which has a paramount interest in that class of road. To demonstrate:

- The state would concentrate its efforts on regional, inter-regional, and interstate roads and would be relieved of responsibility for lesser roads.
- Each county would administer its arterial road system, consisting of the secondary highways connecting municipalities. Since these roads are of inter-municipal importance, it is appropriate that they be maintained by the county.
- Each municipality would be responsible for its local road system, which provides access to property and permits traffic to circulate within the municipal boundaries.

Enlarging the county role in road administration may offer still another advantage: participation of the county governments in regional efforts to solve the problems of mass transportation. It seems plausible to expect that the county officials charged with the administration of the

county arterial roads would give increased attention to all elements of the transportation system, including the mass transit lines which complement the road system.

Revising the Grant System

At present, 10% of the proceeds of the state's five cents per gallon tax on gasoline are paid into the state's Liquid Fuels Tax Fund. The counties receive grants from this fund, the allocations being based on a formula derived from the amount of liquid fuels taxes collected in each county in the period 1929-1931.

With the transfer of responsibility for secondary roads from the state to the counties and municipalities, the following changes should be made in these financial arrangements:

- An amount equivalent to the state's spending for all secondary roads now in the state system should be deposited in the state's Liquid Fuels Tax Fund; the amount would include costs for maintenance, construction, engineering, planning, overhead, etc. (This would be an addition to the gasoline tax receipts mentioned above.)

- Grants from the Liquid Fuels Tax Fund to the counties should be based on a formula which gives substantially equal weight to (1) county and municipal road mileage within each county, and (2) number of motor vehicle registrations in each county.

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HOW TO IMPROVE MUNICIPAL ROAD ADMINISTRATION IN THIS AREA

The pattern for road administration in the 237 municipalities of Bucks, Chester, Delaware, and Montgomery counties varies widely. Some municipalities, such as Upper Darby and Bristol Townships, have fully developed highway units, with substantial complements of full-time personnel and major highway equipment. However, most of the municipalities have few highway employees and little equipment. Still others have none; these contract with private firms for care of local roads.

This organization believes that municipal road administration in Southeastern Pennsylvania could be improved if the county governments effectively execute the responsibilities which our report, *Improved Transportation in Southeastern Pennsylvania*, recommends be assigned to them.

This is the third article of a series based on our recent work, Improved Transportation for Southeastern Pennsylvania, prepared for the Study Commission of the Philadelphia Metropolitan Area. Single copies of the 480-page report are available free of charge to our members; to others, the price is \$10 a copy. Also available are a limited number of free copies of a 24-page Digest of the report.

County Services to Municipalities

Granting the establishment of a county highway department such as this organization has already recommended,* the county government would be geared to provide whatever technical help the municipalities might request, including advice on road planning, construction, lighting, and traffic engineering.

The county highway department might appropriately offer additional services to municipal governments. For example, municipal highway units should be permitted to "rent" major equipment and trained operators from the county highway department at cost. Another proposed arrangement—available at the option of the municipality—would be a county-municipal contract providing for the construction and maintenance of the municipal roads by the county highway department.

County Subsidies to Municipalities

To enable the municipalities to support their local road systems, each county should continue to make grants to its municipalities from the county liquid fuels tax fund. However, the allocations should be based on a formula which gives equal weight to local road mileage and motor vehicle registrations. Moreover, the county's payments to the municipalities should be regulated as follows:

- At the beginning of each year, the municipality would be paid outright a percentage of its allocation; the percentage paid would be determined by the ratio of *municipal road mileage conforming to county standards* to *total municipal road mileage in the municipality*. Thus, if all of a municipality's roads were up to stand-

* The county highway department is one feature of the proposed administrative organization described in CITIZENS' BUSINESS No. 2,212.

ard, the annual subsidy would be paid in full immediately.*

- If the municipality did not qualify for its full allocation, the “unearned” portion would be retained by the county and later made available to the municipality for specific road projects approved by the county highway department.

- If, after a stipulated period (e.g., two years), the municipality failed to qualify for all or part of its allocation, the county would directly use the withheld money for improvement and maintenance of the municipality’s roads.

State Subsidies to Municipalities

Municipalities should continue to receive the motor vehicle user funds allocated directly to the municipalities by the state. This allocation also should be based on a formula which gives equal weight to municipal road mileage and motor vehicle registration. This proposal differs from the present formula† for state grants to municipalities in that (1) vehicle registration is substituted for population, and (2) less weight — 50% instead of 60% — is given to road mileage. Vehicle registration is a more equitable measure of road needs than population, particularly since new population data are normally available only once in each decade, whereas registration data can be made available annually.

Advantages of Proposed System

The advantages of the proposed system (including the redistribution of road responsibilities as described in CITIZENS’ BUSINESS No. 2,212), which is both administratively and financially flexible, are several:

* One of the major responsibilities of the county highway department would be the adoption of *written performance standards* pertaining to the construction and maintenance of municipal roads; the preparation of these performance standards would be a function of the county highway advisory board, an appointive body representing the general public, municipal officials, and technicians.

† Based 60% on road mileage and 40% on population.

• *Enables and encourages municipalities to give adequate attention to local roads.* Relieving the municipalities of responsibility for those roads which properly belong in either the state road system or the county arterial system would enable them to give adequate attention to local roads. The technical advice and contractual services which would be readily available from the county highway department should encourage municipal effort. Further, the system of county subsidies described here would doubtless be an incentive to better local road care.

• *Guarantees local road care.* Under the proposed regulation of subsidy payments, if the municipality does not bring its substandard roads up to standard, the county would eventually do so, financing such road improvements out of the subsidy which it has withheld from the municipality.

• *Encourages acquisition of adequate equipment and its efficient use.* The county highway department's duties would be so extensive as to warrant the acquisition of the expensive equipment necessary for the construction and maintenance of roads. This equipment would be available on a rental basis to the municipalities, many of which have road systems that are not large enough to justify a heavy investment in equipment.

• *Invigorates "home rule."* Even the smallest municipality would have the right and responsibility to administer its own local road system. To each municipality would be reserved the privilege of deciding how to fulfill its road responsibilities: by force of law, by cooperative agreements with neighboring municipalities, by private contract, or by county-municipal contract.

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